THE

PREROGATIVE

OF THE

MONARCHS

OF

GREAT BRITTAIN,

ASSERTED

According to the Antient *Laws* of

ENGLAND.

ALSO,

A Confutation of that False *Maxim*, that Royal Authority is Originally and Radically in the People.

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TO THE READER.

THe Laws and Conſtitutions of Kingdoms and Common-wealths have ever been eſteemed by thoſe happy Subjects whoſe lot it hath been to be governed by them, as the moſt Precious and Sacred Treaſure wherewith the Divine Bounty had Inriched them, and therefore they would as ſoon have been prevailed upon to part with their Lives as their Laws, and among all thoſe Nations whoſe Monarchs are truly Royal, and whoſe happy Subjects are Ruled and Governed by the Unerring Precepts of Equity and Law, *England* is yet the moſt happy, and

challengeth the Precedency above the reſt of her Neighbours, for the Conſtitutions of her Government are the beſt in the World, being no Abſolute, Arbitrary, or Deſpotick Tyranny, wherein the Will and Pleaſure of the Prince diſpoſeth of the Lives and Fortunes of his miſerable Vaſſals; nor is it an Oligarchy wherein the Nobles and thoſe who bear ſway, like the larger Fiſh in the Ocean, prey upon, and live by devouring the ſmaller, and raiſe themſelves to Wealth and Grandure by the Oppreſſion and Ruine of their Inferiours; nor yet is it a Popular Democracy, or a Confuſed Anarchy, but the Law maintains the Sovereigns Dignity, and yet ſecures the Subjects Liberty. It is by the Law that the King is enabled to govern and diſpoſe of all things with a Royal Sovereignty,

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and free from any kind of Arbitrary Severity, & thereby oblig'd the People to a willing ſubjection without force or compulſion; and the ſame Laws by uniting the Intereſt of the Prince who governs by that of the People who are governed, hath ſo firmly knit and ty'd them together, that the happineſs of the one is inſeparably wrapped up and Involved in the good of the other, ſo that Majeſty may be maintained in its juſt ſplendour, and the Royal Prerogatives of the Crown preſerved from any kind of Diminution, and yet the Liberty of the Subject be ſecured, and Property no way infringed or violated; and thereby approves it ſelf to be the beſt ſecurity of both, and that when it is trampled under Foot, and violated, neither the one nor the other is ſafe.

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And that which ſtill augments the excellency of our Conſtitution, and renders it the moſt happy, deſirable thing under the Sun, for the Prince to govern, and the People to be governed by Law, is its exact agreement with the dictates of Heaven, and the reſemblance it bears to the Original of all Government. For the Supream Monarch and Sovereign of the Univerſe governs his Subjects by Laws, clearly ſtating and aſcertaining the Duties commanded, and the Crimes forbidden, together with the rewards of the one, and the puniſhments of the other.

And as thoſe Sacred Precepts whereby the Almighty rules his Subjects are all of them deſigned for, and directly tend to the Honour and Glory of God, who is the Lawgiver, ſo they are as properly

perly designed for, and have as direct a tendency to the present good and felicity, and the fortune, happiness and glory of Mankind who is to yield obedience to them, and the honour of the Sovereign and the happiness of the Subject are thereby so inseparably united, that one and the same Act of Obedience effects both, and the same act of Rebellion reflects dishonour upon the Sovereign, and merits punishment to the disobedient Subject; so our Wise Legislators in the composeing of our Laws, have so contrived them, that by the very same act of Subjection whereby we manifest our obedience to them, we bring happiness and safety to our selves, as well as yield honour and homage to our Prince, as is more fully proved in the following Tract, wherein you'l find

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a brief account of the Laws and Customs of most Nations, and a Conviucing Demonstration from the most Authentick Historians, that those Countries have ever been the most happy and flourishing whose Prince have ruled, and whose Subjects have obeyed by Law.

J. N.

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IT has been always the Great Happiness of this Nation, even as far as we can pierce into the dark and obscure Coverts of Antiquity, to have been famous for the *Equity* and *Justice* of her Princes: and that from such most wise and prudent Legislators, she has receiv'd the chiefest of her wholsome Laws, according to the Temper and *Genius* of the People. So that although perhaps some few in the long successive *Series* of her Monarchs, may have aspir'd to absolute and uncontroulable Dominion, yet the Opposition which they met with from the provident Establishments of their Predecessours, would in no wise suffer them to be successful in their Attempts; and others, tho' perhaps meaning no better than the worst, have thought it no imprudence not only to confirm those ancient and wholsom Laws of their Ancestors, but to make some new additions of their own, to rivet themselves into the favour of the People, as being

otherwise obnoxious to those Violences incident to Usurpation and a crazy Title. Which as it was their Wisdom to do, so was it an Excellency in their Government far longer liv'd, and much more beneficial to the Publick than the Peccadillio's of their Ambition could be prejudicial to private Interests. For all good Laws are the Honour and Renown of them that frame them, whether out of real, or out of seeming Virtue and Affection to the People.

Yet some there are, perhaps, that may despise the Generous Constitutions of their Native Country, believing nothing super-excellent, but what is Foreign. But they are not to imagin there is the same judgment to be made of Governments, as of Dyet and Habits; besides, that it is the Fate of *English* Travellers to be very unhappy in their Observations of things of Moment: Neither is the Insight into Government to be travell'd for only into *France*, or *Italy*, or *Spain*, nor to *Jerusalem* neither, unless it were the ancient *Sion*; but into History and approved Authors, where is to be seen the Reasons of the Periods and Dissolutions of Boundless Empires, and the Causes of the Revolutions and overturnings

turnings of Potent Common-wealths.

That Law and Government are of Celestial Extraction, is a Dispute which will admit of no Controversie. For no sooner Man committed a Transgression, but Nature, which is that Reason which Man at first deriv'd from the benignity of his Maker, soon inform'd him he had done amiss. And no sooner was Mankind multiply'd into Numbers, with disparity of Parts and *Genius*, Temper and Humours, but the same Nature taught them the necessity of Rule, and the Benefit of Subjection. I say these things were instill'd into the Breasts of Men by Nature, and not by the growing Experiences which one day prompted by another perceiv'd, and concluded to be the only Remedies of the Evils they sustain'd. Those Conjectures therefore of *Tacitus* and *Livy* are altogether to be laid aside, who tells us of the Simplicity and Virtues of the first Ages of the World, and that the most ancient of Mortals co-habited without inordinate Desires, free from Villany and Impiety, and so not under fear of Punishment or Coertion; and that there was no need of reward, when every one voluntarily pursu'd the Tracts of Virtue, and void of

all extravagant Desires, requir'd no restraint of their Excesses. These were only florid Conjectures: For it is apparent from authentic History, that Violence and Treachery enter'd the World when there was yet but the small number of Four, and of them, the one that slew, and the other that was slain. Of which the Tyranny and Cruelty of *Lamech* being no less an immediately ensuing Instance, they both afford an emergent Evidence, that they were not ignorant of the Enormity of the Facts they had committed, as convicting themselves by that Law of Nature which inwardly upbraided them for having so highly transgress'd. So though in part it might be true, that Luxuriant Dominion and Injurious Violence, when just Equality and Modesty grew out of date, inforc'd the necessity of Laws, yet does it not appear that the World was so long ignorant of Mischief, as to merit those *Encomiums* of Ethnic Fancy.

But though the Apprehension of a Law commanding Good, and restraining Evil, and a deep sence of Punishment incurr'd by the breach of that Law, were imprinted thus in our first Progenitours, yet we do not hear in all the

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Thouſand ſix hundred fifty ſix Years (for I omit the fabulous Calculations of the *Egyptians*) before the Flood, that ever any one attempted to erect a Sovereignty, or to aſſemble the confuſed Multitude under any ſettl'd Conſtitutions. Although there be who affirm, *Dreſſerus* among the reſt, that *Cain* Erected a Peculiar Kingdom and a Religion of his own, which well he could not do without preſcribing Rules and Inſtitutions proper to his Government.

After the Flood, no longer than a Hundred ſixty one Years, (ſo ancient is Kingly Government) moſt certain it is, that *Nimrod* aſſum'd to himſelf Imperial Dignity and Dominion, as being the firſt Founder of the *Aſſyrian* Monarchy: In whoſe Raign alſo *Aſhur* went out of *Shinar* and built ſeveral Cities; wherein it cannot be thought Men liv'd without the Tyes and Bands of Political Government. *Nimrod* having led the way, we read of many others in many other places, as *Amraphel*, *Kedorlaomer*, *Tidal* King of Nations, and the reſt all mention'd together. And now Particular Laws and Cuſtoms apparently diſcover'd themſelves. *Abraham* gives the Tenth of his Booty to *Melchiſedech*, and the reſcu'd

Kings voluntarily resign him the share of the Spoyl which he had won in Battel. Leagues were made for mutual defence; and under variety of Governments, every one held their Native Rights and Customs so dear, that as the first War we read of in the World was made to subdue, the next was a revolt, to recover lost Liberty, and to throw off the Yoak of Arbitrary Dominion.

Now the same Law that restrain'd Injury and Wrong, asserted Right and Property, or lawful and peculiar Possession of the Assistances and Conveniences of Living. And this was also taught to Man by Nature: For at the same time that the Breath of Life was infus'd into him, was also bequeath'd him that light of Nature, that gave him not only Reason, but right Reason, and consequently the true Grounds and Foundations of Law. Therefore it was that *Cain* and *Abel* betook themselves to different Occupations, to the end they might the better understand what belong'd of right to each other; it being but reason that they should both enjoy the advantages and emoluments of their different Labours. Thus *Adam* was the first that Planted, *Cain* the first that dealt

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in Pasturage, and *Abel* the first that follow'd Agriculture. Who as the World encreas'd made a disposition of right to others according as they saw convenient. And it was but rational for them that were thus invested in possession, to establish the right of their peculiar Claims and Properties upon the Divisions and Bequests of them that were Lords of All. After them were born the Inventers of Arts and Handicraft Trades. From whom 'tis very improbable to think 'twas then lawful to rifle their Inventions, without Exchange or the plenary satisfaction of one Commodity for another.

These things were well observ'd by *Seth*, the third Son of *Adam*, 235 Years after the Creation, in the hundred and fifth Year of his Age, by which time as the World was vastly stor'd with People, so had they as greatly encreas'd their Proportions of Stock and Substance, and improv'd their Allotments and Inheritances of Land. And therefore he began to deem it now high time to think of Framing Laws and Ordinances, for the better Government of so numerous a Common-Weal. And this fell out to be in the Year that his Son *Enoch* was born; at what time, as the Text records,

Men first began to call upon the Name of the Lord. For that then it was, that *Seth* first introduced the Practice of Religion, or the Awe of Divinity, and made Laws and Constitutions for the safety and security of Right and Property; and to prevent those disorders and disturbances of common Tranquillity, of which it may be well conjectur'd he was not a little fearful from the bad Examples of *Cain* and *Lamech*. So that although *Cain* and his Off-spring, that totally perish'd in the Deluge, were the first that broke the Law of Nature, Yet *Seth*, by another Line; another Son of *Adam*, begot by him after his own Image and Likeness, that is to say, Prudent, Good and Virtuous, as he was, whose Race re-peopl'd the drown'd World, and continues to this day; He it was that made this Light of Nature burn more clearly, by bringing Religion into Form of Worship, and Law into Precept and Practice. And it may not vainly otherwise be thought, but that under that same Form of Worship, and under those Laws, Men in all respects continu'd obedient and conformable while *Adam* liv'd; that is, till within seven hundred and seven years before the Flood, so great a veneration they might

might have for him that was ſo well known to be the ſurviving Original of all Humane Race. However it were, this remains unqueſtionable, that the general Corruption and Impiety of Mankind, occaſion'd the Wrath of the Omnipotent Creator, and that thereupon he ſent the Deluge to deſtroy from the Earth that numerous Succeſſion which had ſo highly offended him. Of this the reaſon aſſign'd in general was that already mention'd; a total Defection of all the Sons of Men from God, which had infected every thought of their hearts. All the Precepts of Religion and Nature, all that good Order which *Seth* had ſettl'd in the World, was at length utterly ranvers'd; Liberty and Property was invaded, and the Repoſe and Peace of Common Society ſpurn'd and trampl'd on by Potent Cruelty and Domineering Injuſtice. And all this ſeems to be included under the particular reaſon of Divine Vengeance. For ſays the Text, *In thoſe days were Gyants upon the Earth*, הַנְּפִלִים that is to ſay, Men who either were ſuch as bore down all others before them, by reaſon of their vaſt ſtrength, and huge proportion of bulk, from *Naphal*; to throw down; or from the

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ſame word ſignifying, *to revolt*; ſuch as were Revolters from God, or from the ſame Root again, ſignifying *to ruſh upon*, ſuch as by violence invaded the Rights of others by Violence and Oppreſſion. According to which two latter ſignifications, the mighty Men of thoſe times were call'd Gyants. For that contrary to the Law of Nature, ſuppoſing then no other Law, by force and power they deſpoil'd the weaker ſort not only of their Goods and Poſſeſſions, but robb'd them of their Children, their beautiful Daughters at their will and pleaſure; ſo the words *Lakach*, and *Bathar* imply, the one ſignifying to *raviſh away by violence*, and the latter to *cull and chooſe*. Otherwiſe, with reverence be it ſpoken, it cannot be thought, that the being delighted with the Charms of beautiful Women, and taking them for Wives, was a Crime to merit the Deſtruction of the Almighty's Handy-work; or as the Scripture terms it, the Repentance of the Creator that he had made Man. But this is mention'd as a Crime καθ' ἑξοχὴν, including all thoſe other Violations of Law and Juſtice then raging in the World. And this is apparent from the Context, which gives the beſt and brighteſt light

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to Interpretation. For among all the High Crimes and Misdemeanours that so insanely provok'd the Indignation of the Lord, there is none particulariz'd, but this one Act of the Mighty, stil'd the Sons of God, incroaching upon the Rights and Priviledges of the meaner sort, call'd the Sons of Men, by taking forcibly from them their Daughters and Virgins, to satisfie the fury of their Lust and Incontinency. For which, at first, God only determin'd to abbreviate their Days, and shorten the measure of their long Lives. Perhaps he might forbear, expecting a Reformation of their Oppression and Cruelty, repeated in the next Verse, with a particular aggravation of the same Fact, *of going in to the daughters of Men*; not to be avoided by reason of their irresistable force and power, as being the Sons of God and Gyants. But by vertue of those Conjunctions, the Gyants had Sons, who became afterwards Men of Renown; that is, such as made themselves terrible and redoubted by their Cruelties, and Exercise of Illegal Dominion; and as they multiply'd, fill'd the World, no doubt, with Arbitrary Rapine, and wilful Bloodshed, to obtain their wicked purposes. Which is also

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more palpably discover'd in the following words, explanatory of the preceding general Accusation, that the Earth was fill'd with Violence. A word so diffusive in its signification, that it comprehends all the signal breaches of the Law and Religion, and all the Effects and ill Consequences of Violence, Rape, and Injury; which where ever they predominate, renders the sufferers miserable.

Thus we are come to the Destruction of the First World; and find the Causes that hasten'd it, to be the want of Order and good Government. So that it may well be said, that while all the Sons of Men had abandon'd themselves to the neglect and contempt of the Law and Justice, while Dominion rang'd without the curb of Primitive Reason, and Obedience was only Passive Confusion, the general Inundation of merciless Cruelty and remorceless Violence, set open the Flood-gates of the Deep, and let loose the general Inundation of Water, that overwhelm'd the whole Earth. From whence it being apparent, that the contempt and disregard of right Reason, and consequently of Law, Government, Order, Justice and proportionate Equality between Dominion and Subjection,

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produc'd those Effects which were the universal subversion of Mankind, the chiefest Lesson which the next World had afterwards to learn, was to observe the Failings and Miscarriages of their Predecessours, and to be tender of running into these Enormities that draw down the Judgments of Heaven, and distract and dislocate the Unity and Society of Mankind.

And had it not been for the solemn Promise of the Almighty, how soon another Deluge might have washed away the repleniſh'd Race of *Noah*, no Man can say. Yet might it well be thought there was cause enough given for it, while early *Nimrod* trod the Gyants steps, became the Proverb of those times, and was call'd *Gibbor Tsaid*, or the strong Hunter before the Lord. For He perceiving the People terrifi'd with the thoughts of the late Deluge, and afraid themselves of the same Calamity, takes from thence a plausible Pretence to make himself their absolute Lord and soveraign Commander; and to inculcate into their grosser apprehensions a deeper awe and reverence of his Person, perswades them that he had found out a Means to secure them from all their Fears, and to that purpose puts

Joseph. Antiquit. l. 1. c. 4.

puts them upon that ſtupendious Labour of building a Tower, whoſe vaſt height ſhould bid defiance as well to Heaven it ſelf, as to all future Inundations. Which Toil and Travail while they undertook, he had the advantages both to exerciſe and eſtabliſh the Tyranny which he had long before affected. In the purſuit of which Deſign the numberleſs Multitude being ſhatter'd into ſeveral Languages, were conſtrain'd to quit their intended Enterprize, and having no way to unite again, they only aſſembl'd and embodi'd together, as variety of Language prompted their underſtanding, and parting ſundry ways ſought out particular Habitations, ſome in the nearer, ſome in the remoter empty Regions of the Earth, as Room and Convenience led them. Where under ſeveral Kings and Princes doubtleſs were Erected ſeveral Forms and Conſtitutions of Government, according to the *Genius* of them that bore ſway.

Nimrod all this while kept his ſtation with thoſe that ſpake his own Dialect, and minding nothing more than to extend his Territories, propagated his Dominion where he built *Nineveh* and *Reſen*, particularly call'd the great City, by

by ſubduing his Neighbours, and laid the firſt Foundation of that Monarchy. And theſe were the firſt beginnings, according to the report of the beſt Authors, of Political Rule and Political Subjection. Nor were they in thoſe times, though the true Worſhip of the true God were altogether forgot, quite void of a ſence of Religion. And therefore *Nimrod* being dead, for his great Proweſs and admir'd Atchievements, after his deceaſe was worſhipp'd, though not by the Name, yet in the Perſon of *Saturn*. And the Statue of *Belus* his Succeſſour promoted alſo to Celeſtial Dignity, was ador'd under the Name of *Jupiter*. Which is thought to be the Original of all the *Heatheniſh* Idolatry. For tho', as already hath been ſaid, there was then a general Oblivion of all true Religion, yet they found it abſolutely neceſſary there ſhould be ſome ſort of Religion conjoin'd with Policy, finding it ſo impoſſible they ſhould be ſeparate, and that they were ſo dependent one upon another, that neither could ſubſiſt without the other's ſupport.

To this ſame *Ninus*, *Juſtin* ſeems to attribute what Scripture imputes to *Nimrod*. For firſt he aſſerts, that Kingly Govern-

Government was the most ancient in the World: *Principio rerum*, saith he, *gentium, nationumq; Imperium penes reges erat.* Conformable to that of *Cicero*, *Omnes antiquæ gentes regibus quondam paruerunt.* Confirm'd by that of *Sallust*, *Initio reges diversi; nam in terris nomen Imperii id primum fuit.* Then he also pretends to tell us the Manners and Customs of those Times preceding *Ninus*, *That the People were restrain'd by no Laws, but that the Determinations of Princes were obey'd as such. That it was the Custom to Defend not to Enlarge their Empires. But that* Ninus *was the first who made War upon his Neighbours, and by subduing People unskilful in making resistance, extended the Limits of his Dominions, and violated the former Justice and Moderation of regal Power.* In all which it cannot be said that *Justin* was any where mistaken, but only in the Person of *Ninus*. For that the Antiquity of Kingly Government is unquestionable, and that so highly commended equality of Temper between Prince and People, by him suggested before the Birth of *Nimrod*, is not at all improbable. However, Scripture and *Justin* with others, agree all in this, that there was a Law in the

l. 1. *c.* 1. *de leg.* 3.

Sal. l. 1.

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World from the beginning, tho' only of Reason and Nature, so long as Men obey'd in Quiet and Repose, and Princes Rul'd with Justice and Prudent Equity. On the other side, when Men were depriv'd of that Primitive Safety and Tranquility, Law ceas'd, giving way to War and Publick Devastation. Which Cessation of Law began in the time of *Nimrod*, and not of *Ninus*.

And certainly tho' the Nature of Man be in part corrupt, yet there are those Seeds of Virtue and Divine Reason still remaining in his Soul, which will not suffer him to deny, but that the real distinctions between Good and Evil, are Members of that True Reason, and Divine Knowledge, which were at first infus'd into him. *Cicero*, by a light more than Human, labours hard to make this out, that the Foundations of Law and Justice are fix'd in Man by Nature, and in that reason with which Man is naturally endu'd to difference Right from Wrong, Justice from Injustice, and Evil from Good. Seeing that Men are in the first place furnish'd and adorn'd with heavenly Gifts. Next, because there is but one consentaneous and common Method of Mens living one among another. And *De leg. l.* 1.

in the third place, by reaſon that all Men are oblig'd and bound one to another as well by a certain natural Indulgence and kindneſs one toward the other, as by the Tye of the Law. Which being granted to be abſolutely true, how is it poſſible to ſeparate Law and Right from Nature. And indeed ſhould it be otherwiſe, it would fall out unhappily for the preſerving the Strength and Unity of a Nation, or the People in their right Senſes. Seeing that no Laws ought to be propounded, but ſuch as are approv'd by thoſe who believe all things juſt and honeſt to be deſirable for their own ſakes, and that nothing was to be reck'ned in the number of good things, but what was laudable in it ſelf.

Again, if only Fear of Puniſhment, and not Nature, were the only reaſon that deterr'd Men from Acts of Impiety and Injuſtice, no Man could be properly ſaid to be unjuſt; but the wicked were rather to be accounted inconſiderate and imprudent. Or if advantage and profit were the only Motives to do well, then were Men to be accounted rather ſubtil & cunning, than naturally and intrinſically juſt. Conſequently the Law, tho' never ſo ſtrict, has no effectual or valuable tye upon

upon ſuch perſons, and the ſecurity expected from it, is in a manner rendred void to all Civil Society and Co-habitation. For what will not perſons ſo principled adventure to act in the dark, when they are out of the danger of Witneſſes, and by that means freed from the fear of a Judge? The Gyants of the old World had forgotten Nature, when they acted only by the ſway of Arbitrary Will and Pleaſure. For Nature propoſes but one Law for the preſervation of Mankind; that is, the right Method of commanding and reſtraining upon the ſolid knowledge of Natures Good and Evil. Which they who underſtand not, or at leaſt neglect and ſcorn, muſt of neceſſity be unjuſt. And ſuch were they who by neglecting Natures good and evil, ranvers'd the Laws of Human preſervation, and ruin'd not only themſelves, but all the Earth beſides. Nor was it any Opinion or ſingular Judgment of their own, that could make their Actions juſt, ſeeing that all Virtue is inherent in Nature, and cannot be ſeparated from it. Only Men may be ſo wicked as to deſpiſe Nature, and cry up that for good and honeſt, which is not ſo in

it ſelf. Not conſidering that what ever is vertually good, muſt of neceſſity include within it ſelf that which is without all contradiction to be valu'd and eſteem'd. And thus in all Governments that pretend to right reaſon, tho' Circumſtantial Laws may differ, yet the Law of Nature is immoveable throughout all Nations. Otherwiſe ſhould one Nation think it lawful to Kill, another to Rifle and Steal, or another believe Perjury no Crime, not only Publick Commerce between Nation and Nation, but Private Dealing betwixt Man and Man would be at an end. Nor that Men were inſtructed of the Miſchief of theſe things by the Conveniencies of peaceable Living one among another; but by the Dictates of Nature, and Impreſſions of right Reaſon.

Cicero goes yet a little farther, affirming, That it was the Opinion of the wiſeſt of the Ancients, That *Law was never the Invention of Humane Wit*, but ſomething *Eternal that govern'd the Univerſal World by the wiſe Conduct of Command and Prohibition.* Which ſupream and ultimate Law, was the Mind or Omniſcience of the Deity, enjoyning or for-

forbidding all things according to reaſon. Wherefore that Law which Heaven imparted to Mankind, is rightly to be extoll'd, as being the reaſon and intelligence of a wiſe Man proper to controul and deter. Which Power was not only elder than the Age of People or Cities, but co-eternal with God that rules and governs both Heaven and Earth: for that neither can the Divine Intelligence be without reaſon, neither is it poſſible but that ſuch reaſon ſhould be incapable to determin what was good and what evil. So that had there been no Law againſt thoſe who firſt were guilty of Murder, Envy or Malice, or any other ſort of deſtructive Violence, this Law would have condemn'd them, as it did in *Cain*. In regard that ſame reaſon proceeded from the Divine Light of Nature, perſwading Men to do well, and diſſwading them from evil, which did not then begin to be a Law, when it firſt came to be written, but when it firſt had a being; that is, from Eternity. Which being the Original of all upright and juſt Law, we muſt thence conclude, that the true End of all Laws, are the Safety and Welfare of thoſe Nations, and the Peace and Tranquility of ſuch

Societies for which they are ordain'd. Law being as it were the Diſtinction between the juſt and unjuſt, deriv'd, next to God, from the moſt ancient Fountain of all things, Nature to which all the Laws of Men, that puniſh the bad, and protect the good, ſhould tend as to their center of Light and Information.

And this was that which the Poets meant by all their Fables of the *Golden Age*, which is deſcrib'd by them to be a time when Men liv'd in Peace, Plenty, and Liberty, without written Laws, but by thoſe Rules of Juſtice and Sincerity which Primitive Nature had planted in their minds, when it was a pleaſure to Rule with Mildneſs and Equity, and without Care, keeping juſt Dominion within her proper bounds; and a happineſs to obey without Diſorder, Tumult and Contention, while *Aſtrea* her ſelf held the Ballance of Authority and Subjection in an equal poiſe.

Which reverence of Law and Juſtice was not then committed to Parchment, nor cut in Braſs, but imprinted in the Hearts of Men: According to that of *Virgil*,

——*Neve*

——— Neve ignorate Latimos
Saturni Gentem, haud vinclo, nec legibus æquam
Sponte ſua, veteriſq; Dei ſe more tenentem.

And *Heſiod*, alſo deſcribing the *Golden Age*, ſays, that they liv'd like the Gods, ὥστε θεοὶ δ' ἔζωον —— ἀκηδέα θυμὸν ἔχοντες, without care or fear. For moſt certainly they who are conſtrain'd, through fear of puniſhment, to live according to the Integrity of written Laws, not out of a ſpontaneous probity, cannot be ſaid to be good or virtuous Men, ſeeing that they who forbear to commit evil, through fear of puniſhment, cannot be ſaid to be really good, but only not to be evil. They are only ſaid to be good Men, who by the conduct of Nature, and not to avoid the laſh of Human proviſion againſt Vice, bend their minds to practice Honeſty, Virtue, and Juſtice. And thus this *Golden Age* continu'd, till *Jupiter*, ambitious of Empire, overturn'd this Harmonious Frame of Nature's Law, and expell'd his Father from his Kingdom. Ἔργ. καὶ Ἡμερ. l. 1.

Tibul. l. 1. *Tunc Jove ſub Domino cædes & vulnera ſemper.*
——Tunc Lethi mille repente viæ.

Which is no more than this, that after the *Golden* Reign of *Noah*, the Earth was fill'd with *Iron* Violence, by *Nimrod* and his Succeſſors. Yet as *Jupiter*, by his Example, taught thoſe that came after him to lay violent hands on Thrones and Scepters, ſo may good and virtuous Princes be ſaid to reſtore, as it were, ſo many *Golden Ages* at leaſt within their own Dominions, by making wholſom Laws for the benefit and ſecurity of the People. For tho' the Tyranny of *Jupiter* chac'd *Aſtrea* from the World, yet it is ſaid, and the Allegory may well hold, that ſhe left behind her, as her Legacy, that Primitive light of Nature and right Reaſon, which they who follow cloſeſt may be accounted the neareſt Reſtorers of the Primitive Purity and Innocence of Law and Juſtice. And for this reaſon ſome will have the *Golden Age* to be no other than the Common Liberty of People in a Common-weal, eſtabliſh'd and ſecur'd by wholſom Conſtitutions; where *Hares* with *Hounds*, *Sheep* with *Wolves*,

Wolves, converſe together with freedom and ſafety, under the protection of good Laws.

This is then the difference between the Primitive Ages of the World, and thoſe that ſucceed. At firſt the Natural Inclination of Man to Good, and his Averſion from Evil, govern'd his Actions ſo exactly, that there was no need of any other Law, than that Law of Nature which was imprinted in his mind. Afterwards when Ambition, Pleaſure, and Profit, had, it cannot be ſaid extinguiſh'd, but only eclips'd that Light of Nature, then Men reſolv'd they would not ſee or underſtand what Law was, until they ſaw it firſt put down in Writing, and obedience thereto commanded, under ſuch and ſuch Penalties. So that before there were none at all, now there was an abſolute neceſſity of written Ordinances and Conſtitutions.

And indeed it was high time to ſet up Law and Government, when Wrong and Injury did ſo infeſt the World, that there was no ſecurity of Liberty and Property, but what Law and good Government procur'd. From which Men reap'd thoſe vaſt Advantages, and ſuperlative Benefits, that then they began to acknowledge

ledge the Sacred Original of Nature's Law, as descending first from Heaven. Therefore was *Themis* presently exalted to be a Goddess. No less than the Wife of *Jove* himself, and said to be the Mother of Εὐνομία, Δίκη and Εἰρήνη, or Law, Justice, and Peace, as *Hesiod* witnesses. And Law or *Eunomia* is made the eldest Sister, whom *Pindarus* calls σώτειραν, or *servatricem*; as well knowing that the making and observance of Good Laws are the preservation of all Kingdoms; without which they would soon fall to ruin. He also adds the Epithite μεγαλίδοξον in regard that good Laws bring both Honour and Glory, as well to the Legislators, as to the Observers. In another place the same Author, applauding *Law*, entitles her the Queen of Cities. And *Homer*, speaking of *Jupiter*, does not attribute to his Divinity, the giving to Princes and Sovereign Rulers, the Destructive Instruments of War and Bloodshed, but his arming them with Laws and Justice. And therefore it was the saying of the Orator *Demosthenes*, that Law was the *Soul* of a City: seeing that as the natural Body of Man could not subsist, without a Soul, so without Law and Justice, Cities and Kingdoms, and all

Hes. Theog.

Pind. Ode. 9.

Politic

Politic Bodies, were but as expiring ſlumbers, which nothing can preſerve from Politic Death. And thus the Primitive Light of Nature and right Reaſon was in ſome meaſure recover'd from that neglect and oblivion which had overwhelm'd it. For that this written *Jus*, or *Genus* of written Law, had the ſame Original with the ſpontaneous and harmonious Concord of the *Golden Age*. Seeing that if all Men at that time had been princip'l'd like their Legiſlators, they might doubtleſs have liv'd in the ſame happy Eſtate and Condition, as their firſt Fore-fathers.

By which *Encomiums* and high Applauſes of Law and Government, it appears, that the End of all Law is in general the preſervation of Mankind; more particularly of all Publick Weals and Societies of Men.

Among thoſe that firſt made uſe of written Laws, are reck'ned the *Locri Epizephirij*, as *Strabo* relates. A flouriſhing People once in the farther part of *Calabria*, in the Kingdom of *Naples*, not far from the Promontory, now call'd *Punta di Saetta*. *Pindarus* gives them a high Commendation in theſe words, νόμοις γὰρ ἀτρεκείᾳ πόλιν Λοκρῶν, *Truth governs* *L. 6.* *Ode.* 10.

verns the City of Locri. So careful had *Zaleucus* their Legiſlator, been to pick and cull the choiceſt of their *Cretan*, *Lacedemonian* and *Athenian* Cuſtoms.

But Scripture, of indiſputable Authothority, tells us that in the time of *Moſes*, the firſt Law-giver in the World, the Decalogue was written in Tables of Stone, and for the reſt of his Conſtitutions they were alſo otherwiſe committed to Letters, as being too prolix to be preſerv'd by Memory or Tradition, and the Original Copy'd up in the Ark, by the command of *Moſes*, where the *Levites* might have recourſe to it upon all occaſions; who alſo had it in Charge to read it in the hearing of all the people at the end of every ſeven Years. And certainly there never was a nobler mixture of Civil and Eccleſiaſtical Sanctions, all tending to perpetuate the Eſtabliſhment of the Jewiſh Nation; nay, they had the abſolute promiſe of God for their Duration, upon the bare condition of Dutiful performance. All the encouragement of Victory, Plenty, Peace, Renown and Liberty to the Obſervers of this Law; and on the other ſide, all the fair warnings of that Miſery and Deſtruction that would befall them, if they re-

revolted from it. And to preſerve them from all occaſions of going aſtray, the ſtricteſt injunctions and prohibitions that could be devis'd, were laid upon them againſt Idolatry. To which purpoſe they were as ſtreightly commanded not ſo much as to caſt their Eyes upon the alluring Beauty of ſtrange Women; and as expreſly inhibited from the uſe of ſuch Diet and Meats, both Fleſh and Fowl, as by their luſhious moiſture and extraordinary nutriment excited the heat of their natural Incontinency; and as a farther bar to Foraign luſt and female communication, the *Pander* to Idolatry, they were permitted to take as many free Women and Bond Servants of their own, as their Revenues would allow of. In a word the whole ſcope of *Moſes* Law, the ſole intent of all his Conſtitutions both Eccleſiaſtical and Civil, was for the glory of God, the ſafety and preſervation of the whole Nation in general, and the ſecurity of every individual perſon in particular. That by the Obſervation of the *words* of his *Law*, which as he told them was *their Life*, they might *prolong their daies* in the Land which God had given them; *That Iſrael might dwell in ſafety alone*, that the *Fountain of* Jacob

might

might be upon a Land of Corn and Wine, their *Heavens drop Dew*, and they themſelves *tread upon the High Places of their Enemies*. In which words are ſumm'd up all the bleſſings that can befall a free Nation under good Government. Yet all this while, for all his pains and travel, for all his reſtleſs Study, and inceſſant cares, for his prophetical Bleſſings upon every particular Tribe, for his attoning even God himſelf, upon their haſty and raſh erection of the *Molten Calf*, he does not exact one ſingle kindneſs for himſelf or his Sons; but as if the *Laws* of God had been the only Succeſſors which he took care of, enjoyns Obedience only to them as well to the chiefeſt in Authority, as the meaneſt under Subjection.

And thus *Moſes* having fitted them for peace by *Laws* and *Statutes* that gave to God his own eſtabliſh'd Reverence and Worſhip, to the Church her due, to the people their juſt Rights and Priviledges (not excluding the Daughters of *Zelophahad* from the Inheritance of their Male-iſſueleſs Father) *Joſhua* was next appointed by God, who had inſpir'd him with Valour and Conduct fit for ſo great an undertaking, to lead them in the Field. Yet not ſo, but that although the

the people heark'ned to him in reference to Military Affairs, yet in other things they *did as the Lord Commanded* Moſes.

But *Moſes* had the pre-eminence above all that came after him: He had the ſupream Oracle of the World to conſult upon all Occaſions. The pretences of Others were but meer Impoſture, and *Delphian* Figments. Which however it is not improbable but that they might have learnt from the obſcure and imperfect knowledge which they had gather'd among the *Egyptians* of the Story of *Moſes*. And therefore *Rhadamanthus* among the *Cretans* is ſaid to have faign'd a Familiarity with *Jove* in *Jupiter*'s Den. *Numa* pretended to frequent conſultation with the Goddeſs *Egeria*. He firſt Civiliz'd the *Romans* by introducing among them the practice of Religious Ceremonies, and the worſhip of the Gods. To which *Serv. Tull.* added ſeveral Inſtitutions relating to the Civil Adminiſtration, *Ut quemadmodum Numa divini auctor Juris fuiſſet ita Servium conditorem Omnis in Civitate diſcriminis, Ordinumque, quibus inter Gradus Dignitatis, Fortunæque aliquid interlucet, poſteri Fama Ferrent.* Which *Laws* were afterwards collected and digeſted into a Method by *Papirius*, from it

Liv. l. 1.

it was call'd *Jus Papirianum*. But the chief of the *Roman Laws* were those that were contain'd in their Twelve Tables cut in Brass; of which ten were compil'd by the *Decemvirs*, after the return of those Embassadors which were sent by the Senate to *Athens* to Transcribe the *Laws* of *Solon*, and of those other Cities of *Greece* which were most famous for the Excellency of their Government; to which soon after two others were added. Of which Ten Tables *Livie* writes that
L. 3. 34. in his time, when there was such a prodigious pile of *Laws* heap'd one upon another, they were still the Fountain of all the *Roman* Equity. And it is observable that when the *Decemvirs* first propos'd them to the *People*, they commanded them to consider 'em well, that there might be nothing but what was for the good and prosperity of the Commonweal and their posterity. For that as much as lay in the wit of Ten men, they had adapted the equality of the *Law* with the same respect to the meanest as to the most Wealthy and Noble.

Lycurgus boasted *Apollo* for his grand Associate, and made the World so far believe it, that both *Plutarch* and *Strabo* confirm it, and *Herodotus* tells ye the very

Verses

Verſes with which the Prieſteſs of *Delphos* congratulated him at his Entrance into the Temple, wherein ſhe gave him the Title of Ζηνὶ φίλος, *the Friend of* Jove, and all the Gods beſides. And moſt certainly he was a Perſon of exquiſite Juſtice, as appear'd in the preſervation of the young Prince *Charilaus*, whom his Mother offer'd to ſtifle in her own Womb, and to give him poſſeſſion of her ſelf and the Kingdom, if he would have Marry'd her. And therefore fit to give Laws to a Kingdom that could refuſe one, when it was thrown into his Embraces. Neither could any thing be more ſignal than his Love to his Countrey, while he ſo laborioufly turmoil'd not only to advance but to perpetuate the felicity of the *Lacedemonian* Kingdom. *Juſtin* ſays of him, that he was not more famous for the Invention of his Laws, than for the Example which he ſet in his own Perſon, for that he never decreed any Law againſt others, which he was not moſt punctual to obſerve himſelf. *Populum in obſequia Principum, Principes ad juſtitiam Imperiorum formavit.* In which words, could they be but faithfully and candidly extracted, lies that grand *Arcanum*, the True

Ballance between Dominion and Subjection.

He so endoctrinated his *Lacedemonians*, that they should neither be willing, nor indeed know how to live asunder; but that, like Bees, they should always stick to their Hives, and be always ready about their Prince to receive and execute his Just Commands.

Neither did he care to put his Laws in Writing; as judging that those things which most conduc'd to the felicity of the City, and the bravery of the Inhabitants, were to be planted in their Minds by Education and Custom.

At length, having done as much as he thought could be done to advance the Glory and Renown of his Country, and the Welfare of the Realm, that he might render the effects of his labour diuturnal, he assembles the People, and takes an Oath from the highest to the lowest, that they would observe the Form of Government which he had establish'd among them till his return; for that he was then going to consult the Oracle, about something farther of great Importance for the Common Good. To the Oracle thereupon he goes, and after Consultation, sends back *Apollo*'s Answer,

that

that *Lacedemon* ſhould flouriſh ſo long as they obſerv'd *Lycurgus*'s Inſtitutions; which done, he ſtarv'd himſelf to death at *Delphos*, that he might not abſolve the People from their Oaths by his Return.

Solon alſo refus'd the Kingdom of *Athens*, when he might have had it. A Perſon of that extraordinary Juſtice, that he is by the Hiſtorian ſaid to have made *Athens* a new City, behaving himſelf with that equal Temper between the Senate and the People, that both himſelf and his Laws were equally grateful to both. And *Lucian* alſo brings in *Anacharſis*, highly commending him, as one that had fram'd moſt excellent Laws, and introduc'd moſt uſeful Cuſtoms into the Country where he liv'd, to the great benefit of the Publick. Which Laws, as *Lucian* afterwards, in the ſame Dialogue, makes *Solon* to acknowledge, were publickly expos'd in the City of *Athens*, for every one to peruſe, that ſo they might underſtand when they did well, and what they were to avoid. He could not 'tis true reduce the *Athenians* to that auſterity of living, to which the Inſtitutions and Education of *Lycurgus* had enur'd the *Lacedemonians*, as being

Juſtin. l. 2. c. 7.

Dial. de Gymnaſ.

of a quainter and more airy *Genius*, where *Mercury* had an equal aſcendant with *Mars*, and would therefore have an equal ſhare in the publick Concerns. Yet the renowned Captains that *Athens* bred, the many and famous Victories which they won, the Learning of her Philoſophers, the Liberty of the People, and the long flouriſhing Eſtate of the Government, make it appear that there is more than one way for a Nation to be happy by her own Laws. And that Laws agreeable and conſentaneous to the Temper of one People, will not correſpond with the Humour of another. On the other ſide, when a Kingdom is once eſtabliſh'd under ſettled Conſtitutions, which are found to ſuit with the Diſpoſition of the People, thoſe Conſtitutions are the Safety and Protection of that People, and the Change of ſuch Ordinances has been always the fore-runner of their deſtruction, as by Hiſtory has been fatally verify'd in the *Athenians*, *Lacedemonians*, and *Romans* themſelves.

But they who laid the Foundations of Deſpotic Tyranny and Abſolute Dominion in War and Devaſtation, cannot be ſaid to have thoſe noble aims of bequeathing Liberty and Safety to the People

People under their Subjection: but only the advancement of lawleſs Power, as believing all Mankind beſides to be their Vaſſals and Slaves: and therefore in the heighth of their over-ſoaring and preſumptuous Mortality, calling themſelves Lords of the Earth, and Kings of Kings, which ſwelling Titles were derided in *Alexander*, tho' in the midd'ſt of his Victories, by his Followers better obſerving the Laws of Nature and Reaſon. All this while they diſregarded the equal diſtribution of Right and Propriety to any, and deny'd the Priviledge of Liberty to all, while moſt liv'd miſerably, and contemptibly, none liv'd free. This unhappy Bondage the *Europeans* contemn'd. While *Conon* refus'd to worſhip the *Perſian* Monarch in all his Glory, and *Manius* the Conſul, call'd the *Aſiatic Grecians*, and *Syrians*. *Leviſſima Hominum Genera & Servituti nata.* For here was no Safety, no Security for the People, whoſe Lives were at the Mercy and Beck of one *Man*. They Till'd the Earth and Labour'd only for him; they got Poſterity only for him to ſport away in the bloody Games of War and wilful Vexation. Whereas in well Conſtituted Governments, the People enjoying all thoſe

Juſt. l. 6. c. 2.

Liv. Hiſt. l. 36.

Priviledges with which they are ſatisfy'd themſelves, by the ſame Law that warrants their ſecurity are bound to pay the Homage of their Obedience to the Prince, for his continual Care of their ſafety. And Princes can claim a ſecurity of their own, without fear or hazard, which Tyrants in continual diſtruſt and jeopardy are forc'd to hire and largely pay for. Thus if we conſider the mighty *Ottoman* Empire, we find him indeed expanding his vaſt Dominion over the largeſt part of the habitable World, yet through thoſe Violences which his Inhumane Conſtitutions of Self-ſafety commit againſt the Dictates of Nature and Primitive Reaſon, he may be ſaid to be an Emperour rather over Solitudes and Deſarts, and the wild Beaſts that ravage the forſaken Habitations of Mankind, than the potent Lord of Numerous Cities. He is indeed ſurrounded with populous Guards; but what are they? the inforc'd Tribute of Chriſtian Children through the neighbouring Territories under his Subjection, who are more his Lords and Maſters, than he theirs. If thoſe his own Domeſticated Lyons once begin to roar for want of Pay or other diſcontent, all his Majeſtic Titles

tremble

tremble, and he muſt appeaſe their fury with the Heads of his beſt beloved Favourites. His Armies, a confus'd Rabble of ſeveral Nations brought together to ſtop the Mouths of Cannons, and overbear his leſs powerful Adverſaries with the weight of Multitude. In whom there is no faith or confidence neither, as not being reciprocally oblig'd by any Act of Kindneſs which his care confers upon them; and therefore following him for Fear, not Love. And then their own Thrones ſo tott'ring, that they never think 'em fix'd, till they have cemented them to the Floor with the Blood of their Brethren, or oblig'd their Stipendiaries with a Magnificent Overplus, like *Amurath* the Third. And yet notwithſtanding all their Care and Courtſhip an *Ibrahim* lies ſtrangled at the feet of his Stipendiaries. In a word, the Emperours Will is his Law, a *Capricio* luteſtrings the moſt deſerving of his Princes. And to preſerve himſelf in this exceſs of Arbitrary Power, he deprives the People of their ſelf-Defence, their Arms, and puts them under the domineering Maſterſhip of Chriſtian Apoſtates. So that in ſhort, all things are carry'd on for the ſole benefit and advan-

Thuan. l. 104.

tage of the Tyrannical Monarch, without any regard to the good and welfare of the People; contrary to the true end of Law and Juſtice, which equally reſpects the good of all, and therefore advances the Shepherd, to take care of the Flock.

As for the *Perſian Monarch*, it is accorded on all hands, that his Dominion is not altogether ſo uneaſie to the Subject, however he is an abſolute Tyrant, the People enjoying nothing of their own, but what is abſolutely at the diſpoſition of the *Sophi*. And the Conſtitution of the Government is wholly ſuch as mainly aims at the profit of the Sovereign, with little regard to the ſafety and well-being of the People: nor is there any other method or diſtribution of Publick or Common Juſtice, but what lies ſolely in the breaſt of the Emperour. His Princes, like thoſe of the Grand *Turk*, are his Slaves, and he ſends for their Heads as he pleaſes himſelf upon the leaſt jealouſie or diſtaſt; nor does the Deſpotic Tyrant think himſelf oblig'd to give the World ſatisfaction for what he does. So that *Sha Shephi* is ſaid to have carry'd his Scimitar always ready drawn in his boſom, to cut off the Heads of his Nobles upon

every

every ſlight occaſion. Yet is he for this never a whit the ſafer; as being harraſs'd with frequent Rebellions of his *Shans*; and *Emir Hemptza Mirza* had the ſad fate to have his Throat cut by his Barber, by the Command of his great Officers. Which is confirm'd by *Thuanus* in theſe words, ſpeaking of the *Perſians*, *Crebræ inter eos contra principes ſuos conjurationes; nec in Regia Familia inter fratres aut filios cum patribus Pietatis Officia conſtant.* So little does Arbitrary Power avail to the Security of a Prince.

The *Great Mogul* is ſaid to be a meer Sponge, that ſucks away all the Wealth of his chief Governours and *Kans*, after they have ſqueez'd out the very Heart-blood of the People. Who may be only ſaid to Sow, the *Kans* to Reap, but the *Mogul* himſelf to inn the Harveſt. And thus he ſupports his Grandeur by the Miſery of his Subjects. And yet for all his Guard of 30000 Men watching Day and Night about his Perſon, he is forc'd to part with his Command ſometimes to his rebellious Peers, ſometimes to his undutiful Sons. And *Aurangzeeb* now holds, or lately held the Scepter of that vaſt Empire wreſted out of his Father's hands.

The

The *Ethiopian* or *Abiſſinian* Potentate, commonly, tho' erroneouſly, call'd *Preſter John*, is ſo abſolute, that none of his Subjects, whether noble or *plebeian*, can claim any Propriety in what he enjoys. Which is the reaſon that they adore their Prince as their abſolute Lord and Maſter, as being perfect Slaves to his Will and Pleaſure. Yet notwithſtanding all their abſolute Dominion, none leſs ſecure in their Thrones than the *Habeſſinian* Monarchs. As the ſtories of *Mænas*, ſlain in battel by his rebellious Subject *Bernagaſſus*. *Jacob*, Crown'd, Depos'd, Recall'd, and Redepos'd by his own Nobility, and the frequent Rebellions againſt one of the beſt of their Emperours, *Suſneus*, ſufficiently declare. Fatal Documents that the ſlavery of Subjects is no ſuch protection to regal Power, as vainly ſome imagin.

Thus it appears upon what Foundations ſtands the abſolute Dominion of the *Aſiatic* and *Ethiopian* Monarchs. Their Subjects are made a Prey, as having no refuge to the Sanctuary of known Laws, and Soldiers of Fortune are the Pillars upon which they depend. For it is neceſſary that the Power of Princes be ſuſtain'd by the Love of their Subjects, or

or of others: for he that is fear'd by all can assure himself of no long continuance. But when Tyrants can promise to themselves nothing of security from their Subjects, whom they treat as their Slaves, there is a necessity for them to guard themselves with Forraign armed Forces; and to merit their favour, to allow them their full swinge of preying upon, and insulting over their Subjects. Thus the *Turk* supports himself by Janizaries, who know not only no other Lord, but indeed scarce any other Father than himself, and therefore he indulges them in all things to preserve their affection. And the Kings of *Ormus*, *Cambaya*, *Decan* and *Achen* commit the management of their Affairs to their Slaves. Whereas a lawful and just Prince takes care to be belov'd by his own Subjects, as being the safest Bulwark against his external and domestic Enemies. Nor is there any better or securer way to gain the Affections of a People, than by protecting them under the rules of their ancient Customs and Constitutions.

The *Europeans* are of a more fierce and haughty temper, and were always more impatient of servitude. Tho' some of them much more than others. In which variety

riety we may eaſily obſerve thoſe Princes moſt ſecure, where the Laws and Conſtitutions of the Realm are moſt ſincerely adapted for the preſervation and welfare of the People.

The *Spaniard* takes the firſt care of himſelf, in the next place indulges his Nobility, and takes the leaſt care of his People. The Nobility and Clergy get all, being altogether Tribute free; the People loſe all, being ſo intolerably burden'd that they are forc'd to forſake the Tillage of their Country, not being able to ſupport their Families. Hence a ſcarcity of the People, and the ſtrength of the Kingdom weakn'd. Hence the *Caſtilians* out of their natural Pride no great Lovers, ſomtimes contemners of their Prince.

Oldenburgh. T. 1. p. 166.

The *Arragonians* cannot forget the loſs of their ancient priviledges. The *Catalomians* impatient of their Subjection, as they have made apparent by their late revolts. The *Neapolitans*, *Sicilians* and *Milaneſes* unfaithful and tottering upon all opportunities; as finding themſelves reduc'd to miſery to enrich their Oppreſſors. And what he has got by the neglect of his People, and by Riding with ſo ſtrict a Curb, is ſufficiently

ently known to the moſt meanly read in modern Hiſtory.

As for the *Portugals*, the Scope of their ancient Government was the joynt regard equally both of the Prince and Peoples ſafety; for ſom time interrupted under the *Spaniſh* Uſurpation, but afterwards reſtor'd by *John* of *Braganca*. Therefore ſuch is their Love to their natural Princes, ſuch their hatred of the *Caſtilian*, that *Thuanus* ſaid of them, *in quorum animis incertum plus ad inſaniam uſq; improbus in reges ſuos amor, cum implacabile Hiſpani nominis odium valeat.* Him they Defend, him they Adore and Honour, becauſe under him they live in plenty and freedom govern'd by juſt and equal Laws. And if their Country be not over-abounding in People, it is to be attributed partly to the heat of the Climate, but more eſpecially to their draining their own Country to ſupply their great Navies, and more beneficial acquiſts in other parts of the World.

Olden. T. 1. p. 370.

Lib. 126. circa fin.

And that the ſafety of Prince and People are equally ſought in that Nation, appears by the Laws to which King *Philip* was ſworn in the year 1580. Nor is it a mean ſign that the Laws are good and wholſome, when they agree with the Con-

Conſtitution of the People. The health and ſoundneſs of a Common-weal appears in the health and vigour of its particular Members. It being the Maxim of Tyranny, only to keep the Subject poor. To which *auri vis, & opes infenſæ*, ſaith *Tacitus*. *Nero* never gave to any Favorite any great employment, but he added, *Thou knowſt what we want. Let us take care, ne quis quidquam habeat.* And it is a Proverb relating to the great *Turk*, *That where he has once trampl'd, there neither grow Leaves nor Graſs.* On the other ſide, we find with what a torrent the *Portugals* bore down all before e'm to recover their ancient Laws, and the Soveraignty of their lawful Princes, from the ſervitude and oppreſſion of the *Spaniards*; inſomuch, that when the Duke of *Braganca* had once declar'd his mind, the revolt was univerſal, and with ſuch a rapid motion, that one ſingle day determin'd the contention with little blood; ſo ſwift and aſtoniſhing was the ſurprize. Nor muſt we forget how impatiently this Nation bow'd under Uſurpation; how hainouſly they bore the exilement of his preſent Majeſty, and the loſs of their ancient Liberties, almoſt buryed in a moſt impious

Ariſt. l. 5. p. l. c. 11.

Annal. l. 11. c. 1.

Sueton in Neron.

pious Tyranny, not ceaſing till they had recover'd both their Prince and their Laws, to the unſpeakable joy of the whole Kingdom.

In *France* the King is Abſolute and Arbitrary. His word is the Law. He may thank *Lewis* the XI. for laying the Foundations, and *Richlieu* and *Mazarine* for perfecting the work. However, as it is brought about, the Final cauſe of the *French* Government, at preſent, is the Grandeur of the Monarch; for the ſupport of which, the welfare of the People is but trampled under Foot. The King ſqueezes with his Exactions, the great Lords and Gentry for their Rents, till the Commonalty are reduc'd to utmoſt penury. For which reaſon *France* is compar'd to a moſt flouriſhing plain, that feeds innumerable Flocks of Sheep, which are to be fleec'd when the Shepherd pleaſes. He is never ſafer than when he is in War, to keep his haughty Nobility from hatching miſchief. But his own Subjects being ſo cow'd and out of heart for Infantry, he is forc'd to hire among his Neighbours, and Skins the ſervile Peaſant for their pay: by that means dilating his Territories to the intolerable detriment of his enſlav'd Peo-

Olden. T. 2.

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ple. Only they are happy, becauſe they know no better.

Olden. T.2. In *Swedeland* it is quite otherwiſe; for there the King is bound to govern by the Laws of the Country, which he has no power to alter without the conſent of the People. So that the Character of the *Swediſh* Government is this, That it aims more at the welfare of the Subject than the Intereſt of the Prince. And therefore it is obſerved, that no Commonalty in the World live more happy than they. Which renders them ſtout defenders of their Country, and formidable to the moſt formidable of their Neighbours.

The *Daniſh* Government regards the Common Intereſt of the People, who are govern'd by the ancient Laws of the Country; which the King is ſworn to obſerve at his Coronation. Therefore the People thrive, and live in a plentiful and flouriſhing condition.

Whether the *Engliſh* imbib'd their love of Liberty from their ancient Anceſtors the *Danes*, is not material here to diſcuſs. Yet certainly no Nation under Heaven enjoys thoſe Rights, thoſe Priviledges, that uncontroul'd Propriety with more ample proviſion, and careful circum-

circumſpection of Law, or a more equal ballance between the Prince and the Subject, than the People of *England*; which makes them jealous of their infringement, ſometimes even to exceſs. For the Laws of *England* are made with the conſent of the People themſelves. By which means they prevent the impoſing any oppreſſive Burden upon their own Shoulders. So that it may well be ſaid, that the ſafety and ſecurity of the *Engliſh* People, their Lives, their Liberties, and peculiar Proprieties, are as it were entruſted to the Guardianſhip, and depoſited in the keeping and defence of Laws and Conſtitutions of their own framing. Not of yeſterday, but deriv'd from the proviſions of diſtinct Legiſlators and Princes, from the moſt ancient to theſe preſent times, carefully deliberated and debated among the moſt eminent for Wiſdom and Counſel in the Nation. The want of Laws in the greateſt part of thoſe Governments already recited ſufficiently declare, how little the People have to truſt to, that are only govern'd by Will and Power. On the other ſide, thoſe People who are govern'd by Kings, not Tyrants, are the moſt happy; and thoſe Kings approach

neareſt to the King of Kings, who govern like Shepherds not like Wolves. Which is the reaſon that *David* calls *God* himſelf the *Shepherd* of *Iſrael*. Now then the Common good being the Rule and Quadran of good Government, the better the Laws are, and the more they tend to the Common good, their ultimate end, the better muſt that Government be; in regard that where the Law is predominant, the *Common good* can receive no injury: and where the Common good is ſo ſecur'd, there the People are ſafe in all things that concern their Civil welfare. And in this appears the excellency of thoſe Laws that mainly deſign the common Benefit, that they reſemble neareſt the Laws of God, whoſe Diſpenſations of Juſtice were the ſame to the Peaſant as to the Prince. And as it was moſt certainly a greater Prerogative of the *Hebrew* Kings above all other Kings and Monarchs whatſoever, that they govern'd by the Law of God, ſo does it not admit of much diſpute, whether the Monarchs of *England* may not claim a Prerogative of the ſame kind over all other Potentates, by governing by a Law, the neareſt to Divine of any extant: more juſtly far deſerving the Title of *moſt Chriſtian* Kings, than they

they who glory only in commanding numerous ſwarms of Slaves. But where the National Conſtitutions of a Kingdom have ſo interwoven and twiſted the Intereſt of Prince and People, that they are inſeparable without detriment to both, there the Laws are the ſafety of the Prince, and the ſecurity of the People; and as the ballance kept but duly even, render's the Obligation and reciprocal relation between the one and the other indiſſoluble, ſo it perpetuates their mutual happineſs and tranquility.

Now the People claim their ſecurity by the Law from the equal diſtribution of Juſtice, the preſervation of their Freedom and Proprieties, and protecting the publick Peace from Tumult and Diſorder. On the other ſide, the Prince expects all due Obedience from the People in the execution of the Law, and an exact condeſcenſion to his juſt Prerogatives, without which his Authority leſſens, and grows into contempt. The Laws of *England* ordain to theſe ends, a limited Authority to the Prince, and a confin'd freedom to the Subject; thereby providing at one and the ſame time, for the ſafety of the Prince and the ſecurity of the People. For it is as equally

dangerous and wicked for the People to deny the Prince his juſt Prerogatives, as it is of ill conſequence to deny the People their Freedoms warranted by the National and Fundamental Laws of the Land. We are then to believe that the Princes juſt Prerogatives, and the Peoples ſafety, are the common Good of this Nation; and that their Lives and Fortunes equally depend upon thoſe Proviſions which the Law has ſo equally made for the ſecurity of the whole Body of the Commonweal, of which the Soveraign Prince is the Head.

It is one of the Excellencies then of the *Engliſh* Laws, that they provide for the Common good, which is the end of all true Law. For this is the general Axiom, That the Reaſon and Subſtance of Law, demands that every part ſhould be fram'd for the Common Benefit, which was the Condition that *Alphonſus* King of *Spain* requir'd alſo in his Laws. And thus it is underſtood by the Interpreters of the Civil Law, who affirm that the Law is a common Precept, reſpecting the Benefit of all. *Ariſtotle* obſerves, that the chief end of a Commonweal is to live well and happily. And therefore adds, *That the Laws are to be accommoda-*

Greg. Lop. in l. 9. tit. 1. part 1.

Ethic. l. 4. c. 1.

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ted to the Commonweal, not the Commonweal to the Laws. In my opinion, ſaith *Plato, the Law is made for Benefits ſake, as intended by the Legiſlator to be the ſupream happineſs of a Commonweal; for the Law being taken away, there is no well being in a City.* And in another place he ſhews at large, that the end of Law is the common ſafety and felicity. And *Plutarch* tells us, That Laws are then accompted good and wholſome when they procure the public Benefit. *In Dialog. Hippias.* *In Problem. tit.* 40.

Which is evident from the moſt ſacred Laws of the Almighty. For though they be ordain'd to the honour of God (for that God cannot will any thing without himſelf; nor operate, but for himſelf) yet in thoſe Laws the great Monarch of Monarchs, ſeeks not his own Benefit, but the good and felicity of Mankind. Which then alſo the Laws of Man moſt nearly imitate, when they drive neareſt to the ſame Perfection. Therefore as Laws are impos'd upon a Community, ſo are they to be fram'd for the good of that Community: otherwiſe they are irregular. For it is againſt all rectitude and juſtice, to direct the Common good to private Intereſt, or to make the whole relate to the part, for the parts ſake. And there- *Suarez l.* 1. *c.* 7.

fore when the Law is fram'd for a public Society, the good of that Society ought primarily and principally to be procur'd. The ſame thing is apparent from the Order of final Cauſes. For the end ought to be proportionate to the act, its beginning, and its virtual efficacy. Now the Law is the common rule of moral actions; and therefore the firſt principle of moral actions ought to be the firſt beginning of the Law. For in Morals, the End is the beginning of Operation, and ſo the ultimate end is the firſt beginning of ſuch Operations: But common good and felicity is the ultimate end of a *Commonweal*; therefore, that alſo ought to be the beginning of the Law, and therefore the Law ought to aim at the Common good.

This is illuſtrated by St. *Auſtin*, who collecting a Conſequence, from the *Relation* of the *part* to the *whole*, argues, that a *Maſter of a Family* ought to take his pattern from the public Laws, and ſo to govern his Houſe, as to be conformable and agreeable to the public Peace. Therefore ought the public Laws to give a good Example of public Benefit, and common Safety, that Domeſtic Government may not be ruin'd by a bad Preſident. *Suarez*

Suarez brings another reaſon from the Original of Law, For that the ruling power which is in Men, is either immediately from God, as in ſpiritual Power; or from men, as in Power purely temporal. But both ways, ſuch Authority is given for the public advantage of all in general. For therefore are the Rulers of the Church call'd Paſtors, becauſe it behoves them to lay down their Lives for their Sheep; and Diſpencers, not Lords, and *Miniſters*, not *Primary cauſes*; and therefore they are oblig'd to be conformable to the *Divine Intention* in the uſe of ſuch Authority. Therefore alſo are the ſupream Magiſtrates call'd the Miniſters of the Public: as not being created for their own benefit, but for the advantage of them from whom they derive their Power. They are alſo call'd the *Miniſters* of *God*, and therefore ought to uſe the Power entruſted in their hands in imitation of the King of Kings, who in his Government, ſolely reſpects the common good of Mankind. For which reaſon St. *Baſil* makes this diſtinction between a Tyrant and a King, that the one ſeeks his own proper advantages, the other labours chiefly for the common good and benefit of all his Subjects; not

Suarez l.1.c.7.

excluding himſelf, as being the ſupream Member, and conſequently the firſt that ought to ſhare in the publick and general Emolument.

The reaſon why ſo few People attain this *ſummum bonum* of Government, appears by the ways of practizing Dominion already recited; the want of a due poyſe between Rule and Subjection. For in the Arbitrary *Eaſtern* Monarchies, the People are altogether Slaves, and may be only ſaid to live, not to live with any comfort or enjoyment of themſelves. In the Elective Kingdom of *Poland*, the Nobility carry ſuch an unbridl'd ſway, that the King is but a Cypher, a King and no King; which ſubjects the Royal Soveraignty to ſuch an inſufferable Bondage, that the Title is hardly worth the acceptance of an *Engliſh* Knight. A King in ſubjection to many Kings. And all this while the People live miſerably under the Slavery of a many-headed Tyranny.

The Emperor is ſo overmaſter'd by his *Golden* Bull, and ſo hamper'd with *Electors* and *Dyets*, that in the moſt emergent affairs, the ſlowneſs of deliberation, many times renders him uſeleſs to his Friends, and his Authority cumberſome to himſelf. So that he never moves

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but like a Clock, when his weights are hung on. Such clogs upon Soveraignty, are frequently the ruine of great Atchievments. Neither do the Laws of God any where enjoyn the Kings of *Judah* when they ſhould make either War or Peace.

The *Ephori* were added as a check to the *Lacedemonian* Kings. Which tho' it grieved the Wife of *Theopompus*, who upbraided her Husband for ſuffering ſuch an Eclipſe of his Authority, yet was not *Theopompus* of her mind; who return'd her anſwer, *So much the greater, by how much the more laſting.* And this Remedy ſaith *Plutarch*, was invented by the *Lacedæmonians*, to prevent the evil accidents and ruine that befell the Kings of the *Meſſenians* and *Argines*, who loſt all for obſtinately refuſing to condeſcend a little to the Grievances of the People. *Plut. in vit. Lyc.*

The *Romans* were terribly peſter'd about keeping the ballance even between the People and the ſupream Magiſtrate. For after they had ingratefully thrown out the Regal Government, which had laid the Foundations of all their Grandeur, they betook themſelves to their Annual Conſuls; but when the Nobility

lity had engroſs'd that Office to themſelves, the *Plebeians* began to wince at their Oppreſſion, and departing to Mount *Aventino*, threatned the *Roman* Nobility to forſake the City unleſs they releas'd them of their Burthens. Thereupon the *Tribunes* of the People were invented to be Protectors of the Commons (for I omit the Conſular *Pretors* and *Decemvirs*, as of no continuance) but their Power was over-large, and they raſtl'd with Authority at too high a rate. Sometimes the Tribunes, ſaith *Tacitus*, were mutinous and head-ſtrong, ſometimes the Conſuls prevail'd, whence Civil bloodſhed and ſlaughter, even in the heart of the City. Till at length *Marius* one of the meaneſt rank of *Plebeians*, and *Sylla* the moſt cruel of the *Nobility*, turn'd the *Roman* Liberty, vanquiſh'd at length by both their Arms, into Arbitrary Dominion. After which, no other Conteſts but thoſe of Ambition. So that it is apparent that the *Romans* loſt their Liberty for want of the Tribunes prudent management of the Ballance which was put into their hands, whereas the *Ephori* knew the Limits of their own Authority, as well as the Bounds of that Power to which they were

were appointed as Aſſiſtants and Moderators.

Nor is this *Equilibrium* in Government an airy Notion or *Idea*; It may eaſily be found in the moderation of our own Laws, wherein there is that veneration of Juſt Prerogative, and that care of the Peoples Rights and Liberties, that did not ſometimes Popular Affectation, ſometimes the Ambition of evil Miniſtry ſhog the Beam, it would be a difficult thing for Soveraignty to find an occaſion to complain, or ſubjection to murmur. And for this excellency of our Laws, we are chiefly beholding to the prudence and moderation of our own Princes. Two ſuch Celeſtial Virtues, that of the whole Succeſſion of *Roman* Emperors, they render'd only *Veſpaſian*, his Son *Titus*, and *Antoninus Pius* the moſt Illuſtrious Monuments of the Imperial Dignity. Neither is good Government any other thing than *Juſtice* by another name; which is always pictur'd with an even Ballance in her hand. And that high Character ſounds like ſomewhat immortal, given of *Hiero* King of *Sicily*, that he was, *juſtus in negotio, in imperio moderatus*. Of whom *Livy* alſo reports, that he would have made the *Romans* his *Juſtin.* l. 23 c. 24

his Heirs, that he might leave the *Syracusans* in the same Liberty which for fifty years he had maintain'd among them. In all which time his Subjects had not beheld him nor his Son *Gelo*, *aut vestis habitu, aut alio ullo insigni differentes.* And it is reckon'd among the Elogies of *Philip* of *Macedon*, that he was not only *moderatus, verum etiam mitis adversus victos.* It is farther said of *Valerius Poblicola*, that when he was advanc'd to the highest degree of *Roman* Honour, he lessen'd his own Authority by degrees, that the Law of the whole City might appear more free. To which we may add the saying of *Theopompus*, a King himself, who being ask'd by his *Intimates*, which was the most severe method for a Prince to preserve his Dignity, made answer, If he made his Friends sharers of his Prerogative and Authority, and took care that no injury were done to his Subjects.

l. 24. c. 4.

Justin. l. 7. c. 6. 16.

Nor can any thing more brightly illustrate the moderation of ancient Legislators, than the Laws themselves which they have left behind, so easie and gentle, so tender of Life and Limb, so indulgent to reputation, so strict in the preservation of Liberty and Propriety, so

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equal to the higheſt, to the loweſt, to the moſt wealthy and the pooreſt, that if they fail of their aim, the Common good and welfare of All, 'tis when they fall into the hands of bad interpretation, and ſuch as wreſt their ſincere and juſt intention. Which creates no little aſtoniſhment in the breſts of many judicious men, that the Remedy of their ſtrictneſs ſhould be ſo highly advanc'd, which frequently proves worſe than the Diſeaſe, and proves oft-times more fatal both to Purſe and Perſon, than the moſt grievous ſentence, that lies in their Power to pronounce. The main blot in the fair Scutcheon of our *Engliſh* Conſtitutions. Tho' there may ſometimes happen another misfortune to their Noble Characters, when Eccleſiaſtical jealouſie ſeeks to gall the People with ſpiritual Impoſitions, or Temporal for the ſake of ſpiritual Intereſt; by which means the Yoke of Chriſt, by himſelf aſſerted to be light and eaſie, is made like *Reboboams* little Finger, *thicker* than the *Loyns* of humane Sanction.

Pulton, the Laborious Collector of all the Fundamental Laws and Statutes of the Kingdom, highly extols them beyond the Conſtitutions of the *Roman* Empe-

Emperours, and of all other Nations. And before him the Great and Learned *Forteſcue* was alſo of the ſame Judgment, who prefers the Law of *England* far beyond the Civil Edicts. But above all, nothing commends it more than that it preſerves the Rights and Liberties of the Subject inviolable, and is of that nature that as the ſame *Forteſcue* affirms, the Prince himſelf cannot *change* them *without the Conſent of his Subjects, nor charge them with ſtrange Impoſitions againſt their* wills. For which reaſon the *People frankly and freely enjoy and occupy their own* Goods, *being rul'd by ſuch Laws as they deſire.* Therefore ſaith he, rejoyce O Soveraign Prince, *and be glad that the Law of your Realm wherein you ſhall ſucceed, is ſuch. For it ſhall procure to you and your People no ſmall ſecurity and comfort. With ſuch Laws ſhould all mankind have bin govern'd if in Paradiſe they had not tranſgreſs'd. With ſuch Laws was the Synagogue rul'd, while it ſerv'd under God only as King, who adopted the ſame to him for a peculiar Kingdom.* Concluding with a ſhort *Memorandum* of the wealthy and flouriſhing Condition of the *Jews* under their good Kings, and the Miſery and Captivity that attended wilful and Arbitrary Idolatry.

Delaud. Leg. Ang. c. 9.

St.

St. *Auſtins* Definition of a People may be rightly apply'd to the *Engliſh* Nation; *A People*, ſaith he, *is a multitude of Men aſſociated by the conſent of the Law, and Communion of publick Benefit.* Which as it is moſt certainly true of the *Engliſh* Nation, ſo may it farther be ſaid, that this ſame Body of Men thus Incorporated within this Iſland, has from the firſt beginning had that peculiar Felicity never to have had any other Head but what wore a Royal Diadem. And theſe Laws which are the Guard and Muniments of the Common Good, may be ſaid to have bin compil'd by a grand *Sanhedrim* of Soveraign Potentates, *Weſt Saxon*, *Daniſh*, *Northumbrian*, *Mercian*, *Ina*, *Ethelwolph*, *Cednulph*, *Alfred*, *Athelſtan*, *Edwin* and *Canute*, every one throwing the Royal Contributions of his particular Cares and Studies into the publick Treaſury of the Common Good; which being the Act and Deed of Soveraignty it ſelf, it cannot be thought that Regal Power was regardleſs of its juſt Prerogative, or that *Edward* the Confeſſor would have bin ſo chary of them to collect and reduce them into one Body, and leave them as a ſacred Relicque to the prejudice of his Succeſſors. And

De civit. Dei, l. 19

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from thence our Fundamental Laws derive their illuſtrious Deſcent, and may therefore juſtly claim the Title of High-born, contriv'd by Soveraign Princes, as well for their own ſafety as the Peoples ſecurity. Which being at length made publick with the unanimous conſent and approbation of the Peoples Suffragans; there was nothing binding to the Prince, but what Princes had already condeſcended to; and nothing impos'd upon the People, but what themſelves thought neceſſary and convenient.

To come to particulars, firſt in reference to the ſafety of the Prince; thoſe good and famous Monarchs of our own gave ample teſtimonies, that they were not ignorant what procures the Honour and Eſteem, what the ill will of the Subject. And therefore in the firſt place, none were more devout according to the knowledge of thoſe times, none greater obſervers and ſetlers of Religion, and none more bountiful enlargers of the Churches Priviledges. And in regard the next Applauſe belongs to them who beſt provide for the Civil Government, therefore they took care to make good Laws, that by them they might

might govern well. For as they have juſtly merited immortal Honours who have bin the Eſtabliſhers of Religion and good Government, ſo none have clouded their Memories with greater infamy, then the Contemners of Religion, the Subverters of eſtabliſh'd Government, and Oppreſſors of the People. For it is but the Counterfeit Glitter and Deluſion of falſe Honour, that captivates the Ambitious, and enſlaves them to the deſire of enſlaving others; and mounts their unruly paſſions rather to an affectation of upbraided Tyranny, then renowned and God-like Kingſhip. And yet there is that ſhame of ignominy, and that eager thirſt after what is moſt praiſe-worthy among Men, that the worſt of Tyrants would ſooner be accompted *Ageſilaus*'s, *Timoleon*'s and *Dio*'s, then *Nabis*'s, *Phalaris*'s and *Dionyſius*'s.

Nor ſhall we find that *Timoleon* and the reſt, had leſs Authority in their ſeveral Dominions, then *Phalaris* or *Dionyſius*; but this is certain, they liv'd in much more ſafety and ſecurity. If we conſider the difference between thoſe *Roman* Emperors, and virtuous Princes that rul'd according to Law, and thoſe that took a contrary courſe, Story is

full of the never dying *Encomiums* of *Nerva*, *Trajan*, *Adrian*, *Antoninus Pius*, and *Marcus Antoninus*, who needed not the Guard of Prætorian Bands, nor the Defence of armed Legions to ſecure them, as being ſufficiently defended by their own Juſtice and Moderation, the Affection of the People, and Love of the Senate; whereas all the Power of the *Roman* Empire could not ſave *Caligula*, *Nero*, *Vitellius*, and thoſe others like themſelves from thoſe mortal Enemies which their own depraved Luſts and Tyranny rais'd to their deſtruction; the moſt abandon'd of Men at their Falls. Which was the reaſon, that of twenty ſix Emperors from *Cæſar* to *Maximus*, ſixteen came to untimely and unfortunate Ends. Land-marks ſufficiently viſible, whereby to diſcover the happy Road of Honour and Security, from the Sands and Shelves of Reproach and timorous Anxiety. It is a pleaſure to dwell in Hiſtory under the Raigns of thoſe virtuous Emperors, which give us a full view of Princes, ſafe and ſecure in the midſt of their ſecure and faithful Subjects; the World flouriſh'd in Peace and Juſtice; the Senate enjoy'd their Authority; the Magiſtrates their due Honours;

nours, the People grew Rich and Wealthy; Virtue and Nobility was exalted; and fear only poſſeſs'd the Gates of the Enemy. Reverence, Obedience, and the Peoples Hearts, were the Princes ſatisfaction; Freedom and Security the People's. On the other ſide, under the Lawleſs Raign of Will and Tyranny, behold the World all in diſmal Combuſtion, there War and Bloodſhed, here Tumult and Sedition, Cities diſ-peopled, Rapes and Adulteries Triumphant, Guards doubl'd, the Prince in perpetual Fears and Jealouſies, in continual diſquiet and diſtruſt; the People mad and raging, and unruly as the inundations of the unfetter'd Ocean: and in a word, nothing but diſorder and confuſion, till the gaping Jaws of Ruine ſwallow All.

And therefore it is recorded of *Numa*, ſo highly eminent for his Juſtice and Affection to his People, that during all his Raign, there was neither War nor Sedition, nor ſo much as the leaſt commotion that tended to a Tumult. Which was the reaſon of *Plato*'s aſſertion, That it was impoſſible to move the Throne of that Prince, in whom a Philoſophers mind and Regal Supremacy met together. On the contrary, it is ſaid of *Ti-* *Plut. in vit. Num.*

Tacit. Annal. l. 6. c. 6. *berius*, *Non Fortuna*, *non Solitudines prolegebant*, *quin Tormenta pectoris suasque ipse pœnas fateretur*. Therefore, saith *Cicero*, Fear is an ill preserver of Diuturnity, but love and respect is faithful, and to Perpetuity. And from hence it was, that when the Poets represented, in the person of *Jove*, a wise and virtuous Prince, they brought him in, attended by *Obedience* and *Equity*; but when they make him a Tyrant, they associate with him *Injury* and *Fear*. And *Juvenal*, setting forth the unsafe Condition of Arbitrary Pomp, and the perillous Estate of Tyranny, goes a great way in two lines,

Sat. 10. 112.

Ad generum Cereris, sine cæde & vulnere pauci
Descendunt Reges *& sicca morte Tyranni*

Reges being there taken *abusive*, in the same sense with *Tyranni*.

But the words and sentence of a King are of greater force. Therefore let us hear the determination of *Ferdinand* of *Arragon*, who marry'd *Isabella* of *Castile*. It was a part of the *Arragonian* Constitutions at that time, that if the King went about

Thuan. l. 104.

about to violate the fundamental Laws of the Kingdom, it might be lawful for the Nobility to create another in his room. This ſeem'd very ſevere to the *Caſtilians*; and therefore they adviſ'd *Ferdinand* to aboliſh that Law, as prejudicial to Royal Dignity. But *Ferdinand* reply'd, *That he was bound by the ſacred Oath which he had taken, from doing any ſuch thing. Beſides, that he was of Opinion, that the ſafety of a King and Kingdom was ſecur'd by the equal poiſe of Power; and that if at any time it happen'd, that the Power of the one out-ballanc'd the other, that without doubt the ruine of the one or the other would enſue.* And it is recorded of *Auguſtus Cæſar*, That when he liſten'd to the Advice of his Wife *Julia*, and govern'd by the Law, that he was from thenceforth free from Conſpiracies, and that the People and Senate were always after that faithful and obedient to him. Which was alſo *Eſcovedo*'s Counſel to *John* of *Auſtria*, Governour of the *Spaniſh Netherlands*; telling him withal, that he could never be ſafe among thoſe, who were not ſafe from his own Miniſters: for that *Security* was to be obtain'd by *mutual Security*.

Dio in vit. Auguſt.

Scada l. 9. circa princip.

Fortes Cur. de laud. leg. Angl. c. 33.

And indeed the Kingly Office (made and ordain'd for the defence of the Law of the Subjects, their Bodies and Goods, to which end a Prince receives Power of his People, ſo that he cannot govern his People by any other Law) is of that vaſt and high importance to the preſervation of Mankind, eſpecially conſider'd according to thoſe Appellations which are given to virtuous Princes, for the reaſons aforeſaid, that nothing in the World ought more to oblige the Subject to the perfect awe and reverence of it, as well for their own as the Princes ſake. Which awe and reverence, while it continues towards the Dignity, it is impoſſible but that the Perſon muſt be ſecure and ſafe in all reſpects. For while Princes govern by the Fundamental Laws of Juſtice and Equity, they are not only impal'd with the defence of a Loyal People, but under the promis'd Protection of God himſelf. Their Juſtice and Moderation demands both Honour and Veneration; their Vigilancy Obedience and Loyalty. In this reſpect all Virtuous Princes, that ſeek the proſperity and felicity of the People under their charges, are call'd by *Homer*, ποιμένες λαῶν, Shepherds of the People.

And

And certainly it would be the higheſt Iniquity imaginable for the Sheep to rebel or murmur againſt a Shepherd, that ſought nothing more then the common welfare of them all, and never ſhear'd them, but when the Tribute of their Fleeces was juſtly due. For which reaſon *Pindarus* calls the Royal Dignity λαοτρόφον τιμὰν, an Honour given to Princes for nouriſhing and cheriſhing the People. He alſo calls *Apollo* Δάλε διοδμήτας σκοπὸν, *Olymph. Ode 6.* and *Acaſtus* μαγνήτων σκοπὸν, Inſpectors, Overſeers, or Guardians of *Delos*, and *Nemeor. Ode 5.* the *Magnetes*, denoting the cares and continual watchings that attend upon true Kingly Government; which is alſo the Character given of it by *Homer*,

Οὐ χὴ πανυύχον ἔυδειν βυληφόρον Ἄνδρα.

And for theſe reaſons is Royal Soveraignty the higheſt Dignity among mortal men. For the Title of Emperour is only a nominal, no real difference. Wherefore *Pindarus* ſpeaking of *Jamus*, the Anceſtor of *Ageſias*, that he was as great as Man could be. Some, ſaith he, are more eminent then others, but he, ἔχαπιν κορυφῶ ταις βασιλεῦσι, had attain'd to the utmoſt extent of Honour, as being in

the nnmber of *Kings*. It was the publick Benefit which Men receiv'd by the Glorious Actions of the Ancient *Hero's*, that made them aſcribe Divine Honours to their deceaſed perſons. And the ſame Virtues in all juſt and virtuous Princes produce the ſame Effects of Veneration and Reverence, Obedience and Loyalty in all good Subjects. A King thus arm'd with his own Virtues, and for their ſakes, with the Hearts and Affections of his People, may juſtly warrant that Axiom of the King of the *Argines* in *Æſchylus*,

In Trag. Hiertides.

αἰεὶ δ' ἀνάντων ὀϛὶ δεῖνι ἐξαίσιον

The Awe and Terrour of Princes is hardly to be imagin'd.

And yet he was none of thoſe that lawleſly controul'd; for preſently after, ſaith he,

πείσω τὸ κοινὸν

I will perſwade the Common Good.

From all that has bin ſaid, it plainly appears wherein the true and diuturnal ſecurity and repoſe of a Soveraign Prince mainly and principally conſiſt. In which particular, the Laws of *England* cannot be

be ſaid to have bin any way defective; as having extended their power all along to their own ſatisfaction; rather have they bin ſo tender of it, that they would not ſuffer the Pope to make his Eccleſiaſtical encroachments upon it, even in the moſt flouriſhing Eſtate of Papal Uſurpation. Which was never admitted in *England*, but only when the Deſertion of his Barons expos'd King *John* to the Exorbitancy of Papal Triumph.

To deſcend to the cauſe, and *primum mobile* of the Subjects ſecurity, none can be found more apparent then good Laws, including Juſtice and Freedom; And he that is the Soveraign of a People ſo govern'd, may be rightly ſaid to be as *Agamemnon* is frequently ſtil'd by *Homer*, Ἄναξ ἀνδρῶν, the King of Men. Which cannot be thought to be, where Arbitrary Will only controuls a multitude of Slaves.

Therefore, ſays the famous *Pindar*,

Βάθεον πολέων ἀσφαλὲς δίκα, καὶ ὁμοιότεροπες εἰρέναι

The foundation of Cities is firm Juſtice, and Peace accompliſh'd with her Virtues, the Diſpencers of Riches to Men, the Golden Daughters of conſiderate *Themis*. And praiſing the City of *Opus*, the *Metropolis* of the *Locrians*, *Olymp. Ode* 13.

ai

ἀν θεμις, Θυγατηρ τε οἱ σωτειρα λελογχεν μεγαδοδόξου Ξυνομία. Which *Themis*, and her Sisters good Government, the preserver of Common Weals, took into their protection. And in another place, extolling the City of *Ætna* for its freedom, which is the other main happiness of a Kingdom, τῶ πόλιν κεἰναν θεοδμάτω σὺν ἐλευθερίᾳ ὑλλιδος σταθμας Ιερών εν νομοις ἐκτισεν. To whom, meaning his Son, *Hiero* gave that City which he had built, and endow'd with Divine Liberty, according to the Standard of the *Laconic* Laws. Taking an occasion to commend the Constitutions the *Ætnean* Commonweal, from the Excellency of its Government founded in Justice and Liberty, after the example of *Lacedæmon*, then accompted the most exact Form of Dominion in the World; and therefore by the Poet stil'd the Standard of all other Governments.

Certainly the Government of *England* cannot be thought to stand upon a slight Foundation, that has stood so long upon the single Basis of her own Laws. And it is observable, that then *England* first began to flourish, when the Laws, being reduc'd into one Body, were under the execution and care of one Universal Monarch. Nor could the Breach of *Norman*

man Conqueſt hinder the *Chaſm* of long enjoy'd Liberty, from uniting again, and cloſing it ſelf more firmly with the Cement of its former Conſtitutions; calculated by ſo many Kings of this Iſland for the *Meridian* of *Engliſh* Freedom.

To come to particulars; the Statutes are made not only by the Princes pleaſure, but alſo by the Aſſent of the whole Realm; ſo that of neceſſity they muſt procure the Wealth of the People, and in no wiſe tend to their hindrance: and it cannot be thought but that they are repleniſh'd with much prudence and wiſdom, ſeeing that they are ordain'd not by the Providence and Deliberation of one Man alone, but of more then five hundred choſen perſons.

And here now in the diſtribution of Juſtice between Man and Man, the Excellency of the *Engliſh* above the Civil Laws, is manifeſt from hence, that the *Iſſue of the Plea* is not try'd by the Depoſition of two Witneſſes only, according to the proceedings of the Civil Law, but the Truth of the matter muſt appear evident to the Judge, by the Oaths of Twelve men, Neighbours to the place. For that Man may well be thought to be the Maſter of little Cunning or In-

Induſtry, that cannot find two perſons, who either for fear, for love or profit, will not be ready to contradict the Truth. Nor is it ſo eaſie a thing to diſprove the affirmative, or to expoſe the wicked Lives and Converſations of perſons altogether unknown.

The ſecond Excellency of the *Engliſh* Laws derives it ſelf from the Equitable proceeding, or at leaſt, intention of the Law in the Election and Swearing of Jurors. Who when the parties are come to the Iſſue of the Plea upon *matter* of *Fact*, are by Writ directed to the Sheriff of the County, by him to be choſen, good and lawful Men, Neighbours to the place where the Fact is ſuppos'd to be done. Upon their attendance, either party may refuſe them, upon the reaſonable Allegations of Favour or Affection in the Return. Which Exceptions proving true, the Pannel ſhall be quaſh'd, and another Writ directed to the Coroner for the Return of a new Pannel. And if that be found faulty, the Judges ſhall appoint two *Clerks* of the ſame Court, who upon their Oaths are bound to make up an indifferent Pannel, which ſhall be challeng'd by neither party; yet notwithſtanding all this,

either

either of the parties has the liberty to make his particular Exceptions againſt the perſon of any, if they can tax him either of Alliance, Friendſhip, or any other warrantable ſuſpition of prejudice; upon which the name of the perſon ſhall be cancell'd in the Pannel. Moreover, they muſt have Lands or Revenues for term of Life at the leaſt, to the yearly value of Forty ſhillings, leſt for need or poverty ſuch Jurors might be corrupt and ſuborn'd. Being thus admitted and ſworn to *Impartiality*, their determination of the matter is call'd a *Verdict*, or *Verum dictum*, a true Report.

Here it is evident, that the final Cauſe of this Conſtitution, is the determination of Controverſie as much as can be devis'd, to the ſatisfaction as well of the loſer as of the gainer. For in regard every man is apt to believe his own cauſe to be the juſteſt, he can have no reaſon to be diſcontented, when he finds himſelf convinc'd by a fair Tryal, and the *true report* of ſo many good and ſubſtantial Men; of whoſe Probitie he has as it were, the winnowing and ſifting, before he is bound to ſubmit to their Arbitrement. The ſame method, or very little

little different, is obſerv'd in Criminal Proceedings. So that no Man can be condemn'd either in Life, Forfeiture, or any other pœnal Puniſhment, unleſs ſo many men, whoſe integrity and probity cannot be impeach'd, be upon their Oaths, and upon mature deliberation fully evinc'd of the Merits of his Crime.

By this means the Lives and Eſtates of the People of this Nation are in a great meaſure ſecur'd. For that no man can be depriv'd of his Poſſeſſions, if his Tenure be juſt. Nor is his Life or Liberty liable to the blaſts of Arbitrary breath. So that the Courts of Juſtice are as it were publick Regiſters, ready to give an Accompt of all the particular Actions and demeanour of the Law. Inſomuch that the Law it ſelf may in a manner be ſaid to be upon its Good Behaviour. And therefore it behoves every Juryman and every Evidence, to be in the higheſt degree careful how they miſlead the intent of the Law, ſince he may have need at one time or other, of the ſame Juſtice himſelf. And he is to conſider that his own *Verdict* is the fence and pale of all his fellow Subjects Right and Liberty. And that he is guilty of all the miſchief which ſhall enſue, who

opens

opens the leaſt Gap for Injury and Injuſtice to break in upon Right and Freedom; and that thereby he violates the intent of the Law, which is the common good as well of himſelf as of all the reſt. For *Injury* and *Injuſtice* are of the Nature with Quick-ſilver; which upon a ſmooth and poliſh'd Table cannot take the leaſt advantage, but where it finds the moſt diminutive chink, there it harbours and corrodes. Hence we may conclude, that there are not two things more pernicious to the Probity of *Engliſh* Verdicts, then Ignorance and Faction. For the end of Juries being to diſtribute equal Juſtice for the publick ſecurity, Ignorance not knowing when ſhe does well or ill, muſt of neceſſity be guilty of many groſs and foul tranſgreſſions, while not underſtanding their value, ſhe ſports away the Jewels of other Men, as Children play away their Parents *Jacobus*'s. Therefore the Law has with ſolemn prudence provided, that none ſhould be the Judges of Eſtate and Liberty, but ſuch as enjoy both. And therefore if others are put upon that employment, whoſe familiarity with Beggery values not Eſtate, or whoſe abject Spirit matters not Liberty, 'tis the miſ-

miſcarriage of *Execution*, not of the Law it ſelf. Which many times may prove dreadful in the concluſion, even to Poſterity.

Nor is *Faction* leſs dangerous, which ſeldom makes a true conſtruction of the Law, but carries along with it prejudice, and an opiniater'd Zeal for byaſs'd Intereſt to the Bar. Thus a *Ghibelline* is a fore-judg'd Offender right or wrong, in the breaſt of a *Guelph*. And a *Guelph* is fore-condemn'd without any farther conſideration, by the Verdict of a *Ghibelline*. So that where perſons are brought to Trials, where they who try believe themſelves cock-ſure of a Jury for their Turn, thoſe cannot properly be ſaid to be Trials, but only the Formalities of Trials. And Jurors that go with a premeditated good-will or averſion to ſuch a Trial, may not be ſaid to give a *Verdict*, but to follow the dictates of Paſſion and Affection, more frequently in the wrong, then in the right; as being carry'd like floating and unfix'd pieces of Timber, which way ſoever the Stream runs. And therefore what is done by Faction cannot be ſaid to be a Law. For it brings the World into confuſion; while one thing ſhall be accompted lawful

ful to day, and another thing lawful to morrow. But the Law of *England* is certain and unalterable; It had its Birth from King and People, and was ſolely intended for the common good and preſervation of Both. So that there needs no picking and culling of Jurors by Intereſt and Faction, but the return of Men of Underſtanding, Integrity and Probity, and then they who fall by their Judgments, may be rightly ſaid to fall deſervedly.

The Law moſt certainly aim'd at the right mark; and there is undoubtedly that ſecurity of our Lives and Liberties from it, that without it there cannot well be any. And therefore if there be any ſuch who ſtrain it from its natural and genuine Intention. They are in the fault and not the Law; and Heaven will require the oppreſſion and blood of the Innocent at their hands. For the Law it ſelf is abſolutely grounded upon the firm Baſis of Reaſon, Nature and Juſtice, the Common good of Prince and People.

And moſt aſſuredly, *Forteſcue*, when he was ſo deeply engag'd with *Prince Edward* in the praiſe of the Laws of *England*, might have pitch'd upon far

more noble Themes, ſetting this of Juries aſide, then to ſet them at variance with the Civil Laws, only about Baſtardy and Wardſhips. But he aim'd at Brevity, and therefore paſſes over *Magna Charta* in ſilence; wherein, as in a Mirror, all the World may take a lovely Proſpect of the advantages which this Kingdom of *England* has above all other Nations under the Sun. Yet can it not be ſaid to be the Original of the Laws of this Realm, but a Collection of thoſe ancient Conſtitutions of the *Saxons*, *Danes*, *Mercians* and *Northumbrians*, which were by *Matthew Paris* call'd *Bonæ & adprobatæ antiquæ Regni leges; & leges Edvardi Regis, quæ prius inventæ ſunt, & conſtitutæ in tempore Adgari, avi ſui; & leges æquiſſimi Regis Edvardi.*

Theſe the *Engliſh*, oppreſs'd by *Norman* Tyranny, eagerly thirſted to have reſtor'd, and were impatient, till they were at length in moſt ſolemn manner confirm'd, firſt by King *John*, and afterwards by *Henry* the Third, with the ſevereſt *Anathama* upon the Infringers of it, that State or Religion could deviſe. *Know ye*, ſaith the King, *that We, in the fear of God, for the Salvation of our Soul, the Exaltation of the Church, and*

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the Amendment of the Kingdom. In which words are contain'd the Motives inducing the King to make the *Grant*, and next the Final cauſes of the *Grant*. The firſt Inducement is the *Fear of God.* And this thoſe Two Great Monarchs, Favorites of the Almighty, Victorious *David* and Wiſe *Solomon* both conclude to be the beginning of Wiſdom. Which *Wiſdom*, as it can conſult nothing but what is good and virtuous in General, ſo when It comes to be chief Privy Counſellour and Miniſter of State to a Prince in the Eſtabliſhing a particular National Government, can never be ſuſpected to adviſe otherwiſe then for the general Good and Preſervation of the People from whom Obedience to that Government is requir'd. 'Twould be impiety to think that the *Beginning of Wiſdom* could have any other aim or intention then what is juſt and profitable. Therefore where a Prince is bleſſed with the fear of God, That Religious Fear inſtructs him with Heav'nly Wiſdom; and that Heavenly Wiſdom guides him to make and eſtabliſh ſuch Laws as may come neareſt to the Laws of God himſelf, which reſpected nothing more then the ſafety, repoſe, pro-

tection and welfare of his own People. Happy then is the *Engliſh* Nation, whoſe Lives, Eſtates and Liberties are wrapt and folded up in ſuch a *Charter of Laws*, which had its Confirmation from the fear of God. Certainly their Eſtates, their Lives and Liberties can no where be more ſafe then in the fear of God; by nothing more cordially or warily preſerv'd, then by the *Beginning of Wiſdom*. Which when the late Uſurpers violated, they ſoon found it to be the Beginning of Folly.

The ſecond Inducement was the Good of the Kings Soul. Which he well might hope for from the Promiſes of the King of Kings Himſelf. He might well have a fair proſpect of Eternal happineſs, when he was ſo largely providing for the Temporal Felicity of his People. It was an Argument of the Queen of *Sheba*, That God delighted in *Solomon*, and that the Lord loved the People of *Iſrael*, becauſe he had made him King to do Judgment and Juſtice. This is the Great Charter of Heaven, by which Princes hold their Supream Dignity; the Execution of Judgment and Juſtice is the high Employment, to which God has appointed Kings. In ſo doing, they obſerve

ſerve the Statutes and Ordinances of Heaven. The *Rock of Iſrael* ſpoke to *David*, ſaying, *Let him that ruleth over Men be juſt, ruling in the fear of God.* The recompence of which, is to be rewarded according to their Righteouſneſs. Which is the *Guerdon* that *David* acknowledges to have bin the happy retaliation of his Integrity in obſerving the Precepts and Statutes of God, by him fram'd for the publick Beneſit of his People; and who may be alſo ſaid to be the Author of all good and wholſome Laws grounded upon Reaſon and Nature. And therefore the King might well hope for the reward of his Equity and Juſtice from the God of Both. And the People might well hope for *ſecurity temporal* of their Lives and Liberty, from Laws confirm'd for the *Eternal ſecurity* of the Confirmer.

And as the Motives and Incentives to paſs this Grant were twofold, ſo were likewiſe the Final cauſes of the Grant it ſelf.

Firſt the Exaltation of the Church. Thus *Moſes* provided firſt for his own Worſhip in general, in the firſt part of the Decalogue; as he alſo did in his particular Worſhip, in the Erection of the

Tabernacle, and the Conſecration of the High Prieſt and ſubordinate *Levites*. And this order and method the very Heathens were prompted to obſerve by the very Light of Nature. The firſt care of *Numa* was to ſettle the Heathen Worſhip of the Gods, the next care of *Servius Tullus* was to provide for the good Order of the Politic Government. And *Juſtin* ſpeaking of *Moſes* and a feigned Son of His, whom he calls *Aruas*, and the great Benefit which the *Jewiſh* Commonweal had reap'd from their good Government, *Quorum Juſtitia*, ſaith he, *Religione permixta, incredibile quantum coaluere.* Which mixture of Religion with Juſtice, was by ſome of the Heathens accompted ſo abſolutely neceſſary that they would not ſeparate the Prieſthood from the Kingly Office, as we may read in *Virgil:*

Rex Anius, Rex idem hominum, Phœbique Sacerdos
Vittis, & ſacro redemitus tempora Lauro.

Æneid. l. 3.

And it was the Fatherly advice of *Charles* the Fifth to his Son, whereby he might approve himſelf a worthy Prince, to be conſtant in the Patronage of Religion and

Strada, l. 1.

and the protection of the Laws, which he calls the true and certain Eſtabliſhments of all Kingdoms. For the Ship of the Common-weal can never Ride ſafe without the ſacred Anchor of Religion.

For it concerns all Princes that Study the Diuturnity of their Dominions, above all things, to preſerve the Worſhip of God in its intire purity. There being no more dangerous ſymptoms of a periſhing Kingdom, then the neglect and contempt of Religion. This is eaſie to be underſtood, if Men would give themſelves to underſtand the Fundamental ground and reaſon of the Religion where they are born and bred. For that Religion has its Birth from ſome peculiar and awful Original or other. The Religion of the Heathens was grounded upon the Anſwers of the Oracles, and the Obſervations of Diviners and Soothſayers. Believing that thoſe Gods which could foretel good and evil, could alſo bequeath them the ſame Felicities, or vex them with the ſame Misfortunes. But the Foundation and Original of Chriſtian Religion, it is not to be queſtion'd but that we all know, as being eſtabliſh'd in the World by the Eternal

Son of the ever living God. And the ends of it are to procure Salvation in Heaven, and Tranquility, Union and Peace upon Earth. And while the Faith and Integrity of Men makes no other uſe of it, the Intermixture of it with ſecular Juſtice makes that binding Cement, that renders the Bulwark of Government impenetrable to all the aſſaults of Humane Violence. For by the Exaltation of the Church is not meant the Exaltation of Pomp and Gawdy Ceremony, and the pampering it up in worldly Honour and exorbitant Wealth, quite contrary to the Inſtitutions of the Founder, who laid the Foundations of his Doctrine in Humility and Peace. From whence while Men in Holy Orders deviate, and maintain the forbidden Intereſt of Worldly Glory, while they ſeek to ſupport the name and ſhew of Religion, they Adulterate Juſtice, and many times become the main diſturbers of the publick Peace. Whence *Matchiavel* makes this obſervation, That thoſe People who inhabit neareſt to the Church of *Rome*, have the leaſt Religion; and aſcribes the Bad Eſtate of *Italy* to the *Roman* See. And for this, he gives two invincible, as he calls them, Reaſons. Firſt, for that

Matchiavel. diſcorſi. l. 1. *c.* 12.

by

by the evil and wicked Examples of that Court, the whole Nation have loſt all their Piety and Devotion. The next Reaſon proceeds from the different Intereſt of Chriſtian Humility, and Antichriſtian Vain-glory. For the *Roman* Court to maintain the Pomp and Splendour of a Temporal Hierarchy, is forc'd to keep not only *Italy*, but all *Europe* in Diviſion, and ſometimes to League even with the Turk for its own preſervation; by which means unhappy *Italy*, being prevented from uniting under their own ſupream Prince, and one frame of Law, is expos'd to all the Pretences of her more powerful Neighbours, and her pettie Princes are but the precarious Tenants at Will to more mighty Potentates.

Nor does the Exaltation of the Church encourage the Prieſthood to move irregularly out of their Sphere, or to lead an Amphibious Life, ſometimes in the running Streams of the Goſpel, ſometimes upon the *Terra Firma* of Temporal Government. Nor is it in Scripture a warrantable method of ſeeking Church preferment to oblige the ſecular Intereſt by ſtrain'd and wreſted Interpretations of the Immaculate Scripture.

ture. Like *Shaw* Preaching up the Title of *Richard* the Third, and *Latimer* the right of *Jane Seymour*. For if the Kingdom of their Lord and Maſter be not of this World, no more does temporal preferment belong to the Miniſters of his Doctrine. But the true Exaltation of the Church is to protect it's Miniſters in the Preaching of ſound Scripture, to the Converſion of Souls, to the building up the new *Jeruſalem*, and advancing the future Kingdom of Chriſt, by their endeavouring to increaſe the number of his Celeſtial Subjects. The Exaltation of the Church protects her neat and pure, and exactly cleans'd and ſwept from all the Cobwebbs of *Babyloniſh* Superſtition. For then will *Rome* deſpair of ever ſetting Foot in *England* more, when with grief ſhe beholds all her Follies and inveigling Allurements Root and Branch, extirpated. To which end, the ſame reſolution might well become the Clergy of *England* in reference to the Relicks of Popiſh Ceremonies, which was applauded in King *Stephen* in relation to the *Roman* Laws; who hearing that they were brought into *England*, and lodg'd in the cuſtody of *Theobald*, Archbiſhop of *Canterbury*, commanded

manded them out of his Houſe, publiſh'd an Edict againſt the Laws of *Italy*, and baniſh'd them out of his Realm. Not enduring, tho' a Forraigner himſelf, any other then the Honeſty of the Engliſh Conſtitutions. An Act of his not recorded by any of our Hiſtorians, but by the Learned *Selden* in his Notes upon *Forteſcue*, cited from *Roger Bacon's Compendium Theologiæ*, and *John* of *Salisbury* in his Treatiſe *de nugis Curiaticum*.

On the other ſide, the Wolf in Sheeps cloathing, outwardly Meek, and inſinuating Hereſie and Schiſme, are equally dangerous and contagious. For Hereſie, the Illegitimate Brat of Contumacy, while it labours to ſhake off from the minds of Men the eaſie Yoke of Chriſt, at the ſame time teaches Men to violate their Allegiance to their lawful Princes: and they that ſtrive to bring in the Innovations of obſtinate Opinion, if they get the upper hand, ſeldom change the Religion alone.

Therefore the Exaltation of the Church defends and guards thoſe Men that give themſelves to compoſe the breaches of Eccleſiaſtical Differences, and labour to beget a harmony and unity of Faith and Devotion, which then ren-

renders Religion moſt truly uſeful, and the moſt unblemiſh'd Aid of Civil Juſtice.

The ſecond final Cauſe of this Great Charter, was the *Amendment of the Kingdom.* The miſcarriages of thoſe times are by our Hiſtorians ſaid to be the Cancelling of the Great Charter, by the advice of *Hubert de Burgh*, Chief Juſticiary of *England*, as firſt confirm'd by the King during his Nonage. The diſplacing the Engliſh Nobility, and admitting *Poictovins* and Forraigners into the Chief employments of the Kingdom, and the Impoveriſhment of the Nation by vaſt and continual Taxations. By the means of which undue proceedings the ancient Laws of the Realm were render'd uſeleſs, and the Liberty of the People lay at the Mercy of Evil Miniſters. The amendment of which Grievances, as being an Act due to the Honour of God, the Salvation of the Kings Soul, and the Exaltation of the Church, is now intended by the Confirmation of this Great Charter. From whence it is inductively demonſtrable, that if the Eſtabliſhment of good Laws be the way to procure ſuch ineſtimable Happineſs to a Prince, the continuance of bad Cuſtoms

Cuſtoms and Oppreſſion inclines to all the contrary conſequences; that is, to be diſhonourable to God, hazardous to Salvation, and injurious to the Church. Which conſiderations of Eternal Detriment or Felicity, when they come to be the inducements to Reformation, muſt certainly be a great advantage to ſuch Reformation, that it may prove effectual to all its purpoſes. And then ſuch Act of Reformation is of that high Merit, that it produces a benefit of the good, exceeding the miſchief of the Evil; the reaſon perhaps why *Machiavel* aſcribes a more Exalted renown to thoſe Princes who reform the corruptions of a diſorder'd State, then to thoſe who only continue the Good Government which they found. *E veramente*, ſaith he, *un Prencipe cercando la gloria del mondo doverebbe deſiderare di poſſedere una Citta corrotta, non par guaſtarlo, come Cæſare, ma per riordinarla, come Romulo.* A Prince Ambitious of the Honour of this World would deſire to come to a Kingdom under the corruption of ill Cuſtoms, not to ruine it like *Cæſar*, but reform it like *Romulus*. For as it is impoſſible but that Ambition, deſire of abſolute Dominion, and many other overſights of Go-

Government, will many times disturb the Courts of Justice, and let in Confusion at the Breaches of the Law, so is that Prince the more highly to be honour'd, who reforms those abuses, and restores exiled Justice, by how much such Reformation must needs be the more welcome and acceptable, even as health is more valued by such as know the Inconveniencies of Sickness, then by those who never understood the want of Cure: and by how much the Joy is greater for the recovery of the lost Sheep, then for those that never went astray.

Now this *Amendment of the Kingdom* imply'd the defect of Government, and such a defect which endanger'd the Estates, Lives and Liberties of the Subject; which since they could be no way secur'd, but by the Recovery of the Ancient Laws of the Kingdom, it follows, that seeing the Rights and Liberties of the English People are still the same, they can be guarded by no better security then what has hitherto preserv'd them, as upon which the Salvation of the Princes Soul, and the Exaltation of the Church depend, and all redounding to the Honour of God.

Neither

Neither could Time it ſelf diſſolve this *Charter*, as being granted to all the Freemen of the Kingdom, to be held and enjoy'd in the Kingdom for ever.

But what thoſe Liberties were, and what the Amendments were, is better ſeen by the Charter it ſelf: in regard that what was good by Amendment, was on the contrary, evil and unjuſt in practice: *No Man may be taken or impriſon'd, or diſſeis'd of his Free Tenement, his Liberties or Free Cuſtoms, or be Outlaw'd or Exil'd, or any way deſtroy'd, nor will we enter upon his Poſſeſſion, nor Commit him* (ſo *Selden* renders the laſt words) *but by the Loyal Judgment of his Peers, or Men of his Condition, or by the Law of the Land.* *Nec ſuper eum ibimus, nec ſuper eum mittemus.*

By this Paragraph of the *Charter* it is plainly to be made out, that the Eſtates and Liberties of the Engliſh Subjects are defended and guarded as well by the Law of Nature, as by the Law of the Land: as having embody'd thoſe Principles of Morality, which moſt conduce to Publick Honeſty, which is the Common Security. All which are muſter'd up under that General Head of *Alteri ne feceris quod tibi fieri non vis.* Which being the Law of Nature, is alſo the Will

Will of God, who is the Author of Nature. So that as God can command nothing but what is purely honeſt and juſt, no more can the Law of Nature. Now that the *Materia prima* of this Law is the ſame with that of the Law of Nature, is apparent from hence, that it enjoyns neceſſary Honeſty, and forbids the Evil contrary to it. To clear the point a little farther, This Paragraph contains nine Branches relating to the Liberty of Perſon, the ſecurity of Property and Poſſeſſion, and the general execution of Juſtice.

1. *No Freeman may be taken or impriſon'd*; That is, as the Lord Chief Juſtice *Cooke* expounds it: No Man ſhall be reſtrain'd of his Liberty by Petition or Suggeſtion to the King or his Council, but by Indictment, or Preſentment of good and lawful Men, where ſuch deeds be done. For Liberty is the power of living at pleaſure. And no Man lives as he pleaſes, who is not permitted to enjoy that repoſe and tranquility both of Mind and Body which he propoſes to himſelf. Which Liberty was given him by Nature, and in ſome meaſure granted even to the wild Beaſts themſelves. And therefore to deprive him

him of the Power of himſelf, is to deprive him of the gift of Nature, to which there is nothing that he can have more Right, until he forfeit it back to the Law by tranſgreſſing it. And that it is the gift of Nature, is evident from that Love of Liberty which Nature has infus'd even into all the particular Members of the Creation. The Elements themſelves diſdain the Curb of Servitude. Impriſon'd Fire when it gets looſe revenges it ſelf with greater fury. The fetter'd Ocean foames and roares at his Confinement; The Winds againſt their will detain'd in the Earth's bowels, put the Earth into moſt violent Convulſions. We ſee how impatiently young Horſes brook their Imperious Curbs; and how the little Birds at firſt bewail the Captivity of the Cage. Liberty is one of the chiefeſt Felicities Man has to boaſt of that he is by Nature Lord of himſelf, and has only Reaſon to be his Governour. Nor does the Law require ſlaviſh Subjection from him, but natural and neceſſary Obedience; which is therefore ſo far from being oppreſſive, that it becomes de-

lightful to him, becauſe he finds thereby his Liberty preſerv'd. For theſe reaſons every Man that enjoys his Liberty is ſaid to be the treaſurer of a moſt ineſtimable Jewel, the Priviledge of Nature and his Birthright, which they who raviſh from him by violence and againſt the Law of Nature, deſpoil him of the Benefit of Heaven, and reduce him to the ſlaviſh condition of Beaſts, as if he were only made for the uſe of Tyrannizing Power.

Therefore ſays this Law, let No man be reſtrain'd of his Liberty or impriſon'd but by the Law. I omit the fatal Conſequences of endangering the Liberty of a People enur'd to Priviledge and Freedom, the love of which to them is ſo exceſſive, that accounting nothing dearer to them in this World, they proſtrate Life, Eſtate, and all at the feet of its Preſervation. On the other ſide, Popular Licence is with all the ſeverity imaginable to be reſtrain'd; for that unhinges publick Safety, and makes an Inundation upon the true Juſtice of Government. Then which nothing can be more pernicious to the Publick Security, and the

the Common Good of Prince and People.

2. *Let no man be diſſeis'd or diſpoſſeſs'd of his Freehold*, that is, of his Lands, Livelyhood, Liberties, or free Cuſtoms as belong to him by his free Birth-right.

And this alſo depends upon the Law of Nature. For no ſooner was the World Created, but immediately appear'd Propriety. *Abel* was a Keeper of Sheep, and *Cain* a Tiller of the Ground. And therefore was Man endu'd by Nature with Induſtry, to advance his Eſtate, to the end he might not only live, but live comfortably upon what by his Labour he enjoy'd. Which being obtain'd by his own induſtry and pains, Nature inſtill'd that Moral Principle among Men, that it was but juſt that every man ſhould quietly and peaceably enjoy what he had got by his Labour and the ſweat of his Brows. And this is evident from the Law of Inheritance, the Inſtitution of God himſelf. For if by the Law of Nature he had not power to poſſeſs and keep, he could not have power to diſpoſe. But the undenia-

ble Power of diſpoſition confirms the right of Property and Poſſeſſion. So that for a Man to be deſpoyl'd of the fruits of his Labour, or of the Inheritance of his Anceſtors, is againſt the Law of God and Nature. *Thou ſhalt eat of the Labour of thy hand; happy ſhalt thou be, and it ſhall be well with thee*; and He that gathereth by Labour ſhall encreaſe. This was the Eſtabliſhment of Property by two of the beſt of Kings, by the dictate of God himſelf. And therefore for Tyranny to waſte the Labours of the Subject profuſely upon illegal Innovaſions, and unneceſſary Pomp and Riot, is a piece of Injuſtice of the higheſt Nature. And therefore this Law grounded upon the Law of God and Nature, takes eſpecial care to ſecure the Property of the Subject from Exorbitancy and Oppreſſion.

Not that hereby the Laws of legal Tributes are any way contradicted. For they are impos'd upon the People, and given to the Prince as a publick Perſon for the Common Good; of which the ſupport of his Dignity is a part. And generally in *England* they are

are given with the Subjects consent. And this is also warranted by Scripture. *For this reason you pay Tribute also; for they are Gods Ministers.* Nor can the People expect to be safe in what they possess, unless the Prince be sufficiently supply'd for their defence. And yet the Law has so provided too, that they cannot be put upon the expence of chargeable and unnecessary Wars; for tho it be in the power of the Prince to make and proclaim the War, yet the Sinews of it are in the Peoples keeping. However, for the People to deny their Prince his just and legal Tributes is altogether as unnatural, as it may be thought unkind in him to deprive them of their Goods and Fortunes, without a lawful cause against their good-liking.

The third and fourth Branches are made to interpose in bar of unjust Exilements and Outlaries. Of which the one is the Occasion that a Man is said *Perdere Patriam*, to lose his Country; and the other to be depriv'd of the benefit of his Native Laws. Two heavy Burthens, and two unmerciful Injuries for a Free-born Man

to take at the hands of Violence without a Legal Provocation. They are a ſort of Civil Excommunications, which cut a Man off from the ſociety and commerce with his deareſt Friends and Country-men, and the benefit of the Law; and leave him as it were forſaken both of God and Man. Baniſhment was look't upon in former times, as an affliction ſo heavy and ſo inſupportable, that it was thought a Puniſhment ſufficient for Treaſon in the Raign of *Henry* the Firſt. Even in the time of *Richard* the Second, the offences of great Perſonages were puniſh'd by Baniſhment. In ſhort, they are both when undeſerved, Breaches of Mans Liberty, and conſequently contrary to the Law of Nature, which gives to every Man the right of a *Civis Natu* in the Country where he was born. For it is not to be queſtion'd, but the *Land which the Lord thy God has given thee*, was ſpoke to every individual Native of the Country, and not to particular perſons. And therefore it is not a thing of that ſlight Importance, to hurry the Free-born Citizens of a Commonweal, out of the

Land

Land of their Nativity, or to put them upon the neceſſities of voluntary Exile, upon the Score of Conſcience and Eccleſiaſtical Intereſt. For all true Eccleſiaſtical Intereſt is the Intereſt of Chriſt, and as ſuch the Intereſt of Chriſtian Religion as to this World, is grounded upon the Law of Nature; one of whoſe chief Maximes therefore is, *Do as you would be done by.* For which reaſon that Law which forces the free-born Subject of a Nation into Exile, and all Men are conſtrain'd that go to avoid ſome inconvenience or violence prejudicial to their preſent Peace, is contrary not only to this Statute, which ſays, that no Man ſhall be exil'd but by the Legal judgment of his Peers, but alſo to the Laws of Chriſtian Liberty, which admits of no Corporeal puniſhment upon the ſcore of Religion, much leſs of Exilement, which is a forfeiture of the higheſt degree. Eccleſiaſtical Intereſt, which is far the more ſublime and more noble Power, may exterminate from Heaven, but not from Earth; For it is the ſame thing whether Intereſt adviſe or act. Ac-

cording to that of the Learned *Bishop Taylor*, *Many*, saith he, *have got a trick of giving People over to the Secular Power, which at the best is no better then Hypocrisie, removing Envy from themselves, and laying it upon others; a Refusing to do that in external Act, which they do in Counsel and approbation; which is a transmitting the Act to another, and retaining a proportion of the Guilt to themselves, even their own and the others too.*

Liberty of Prophecying, p. 229

And therefore this Law, having a greater regard to the Publick good and the Defence of the Prince, enervated by the dispeopling and emptying of his Country of its chiefest Sinews and Strength which consists in the Number of Inhabitants, (and which he that travels the Popes Territories may easily observe not to be the Interest of *Rome*) has here taken care that no Man should be exil'd before legal judgment of his Peers. Not but they who deserve Banishment ought to be punish'd according to their deserts; but then they must be first convicted according to the Law of the Land. Otherwise it is not only con-

contrary to the Law but the Cuſtoms of the Realm, by which no Man can be baniſh'd out of his Native Country, but either by Authority of Parliament, or in caſe of *Abjuration* for Felony by the Common Law.

Therefore the ſecular Law, (never ſo certain in its courſe, as when it ſteers without the helm of Eccleſiaſtical Ambition) is ſo tender of Exilement, that it will not permit even the Prince himſelf to ſend any Subject of *England* to ſerve him againſt his will: nay, if you believe the Lord *Cooke*, a Man cannot by conſtraint be commanded out of *England* into *Ireland*, tho' for his Honour to be Deputy of the Kingdom. Which ſhews how nice the Laws of *England* were to tread the Footſteps of Nature and Reaſon in this particular.

5. *No Man ſhall be deſtroy'd*, that is, by the interpretation of the *Lord Cook*, No Man ſhall be forejudg'd of Life or Limb, diſ-inherited, or put to torture or Death.

And thus all oppreſſion againſt Law, by colour of any uſurp'd Authority, or under the pretence of Juſtice, is a kind

kind of deſtruction. Which is neither to be done *aliquo modo*, by any way, means, pretence or ſhadow whatſoever.

Of this ſort of Deſtruction the Pſalmiſt complains when he cries out, *All the Foundations of the Earth are out of courſe.* The public good and ſafety was turn'd into public Violence and Oppreſſion, while Lawleſs Power and Arbitrary Dominion made Havock of the Lives and Liberties of the ſuccourleſs People. Then which a greater Calamity cannot befall Mankind. For what more irreparable injury can be done to a Man then to deprive him of his life, or maim him in his limbs; thereby to demoliſh not only his well-Being, but his very Being it ſelf, upon every Cholerick Incentive of Luſt, Ambition, Superſtition, Revenge, and many times of Intereſt and Politic Conveniency? This prudent Nature foreſaw, and engrav'd in the heart of every Man a deſire of aſſociation for mutual defence againſt the Rage of licentious Will and Pleaſure. Nature approv'd their deſign, aided them with her own Light, and dictated to them

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Her ſelf thoſe Principles and Precepts of Honeſty, Juſtice, and Moderation, which Heaven had infus'd into Her, that they might reduce them into Laws, to prevent the Havocks of unlimited Controul, which wherever it ſets footing, reduceth All to Beggery, Slavery and Deſtruction. Which while it is the chief endeavour of Nature, aiming at nothing more then preſervation, to keep faſt bound in the Chains and Fetters of her own Law, warrants the ſame method in Conſtitutions of Human Frame. And certainly if they are to be thought the only *Fœlices Agricolæ*, that live under the Protection of good Laws, the Engliſh may be ſaid rightly to be They, who have the Laws of God and Nature ſpreading their Cherubim-Wings over the Lives and Liberties of every particular perſon in the Nation.

The next and ſixth Branch, *Neither will we enter upon his Poſſeſſion, nor commit him*, may ſeem to be a particular Promiſe of moderate Indulgence to the Subject in reference to the peculiar claims and Suits of the King relating to the Crown, yet ſtill ſpringing from

from the ſame Original. Which ſhews the Kings of *England* truly fit to rule, while they themſelves ſubmit to the Laws by which they govern. As it was ſaid of *Lycurgus*, *Quod nihil lege ulla in alios Sanxit, cujus non ipſe primus in ſe Documenta daret.*

The three next Branches relate to the great prejudices and damages which are ſuſtain'd by the ill management and Execution of Juſtice through the Corruption of its Miniſters; againſt which the Law provides in theſe words:

We ſhall ſell to no Man Juſtice or Right.

We ſhall deny to no Man Juſtice or Right.

We ſhall delay to no Man Juſtice or Right.

The ſelling of Juſtice or taking Bribes, and the denial and delay of Juſtice as they are equally diſhonourable to God, ſo are they to them that require Juſtice equally injurious. For it is the higheſt preſumption that Man can be guilty of to expoſe to ſale one of

of the chiefeſt Attributes of the Almighty. There is nothing whereby God more exalts himſelf to Mankind, then in the frequent Repetitions of his Juſtice. Of which he that makes Merchandize, proſtitutes the Honour of his Maker for filthy lucre: and yet neither is it his own to ſell; for God is the Fountain of Juſtice; from him it all flows, and his it is. Only he entruſts it with the Miniſters of Juſtice for the good of Mankind. He that does Juſtice uprightly, acts like God; but he that ſells it, ſells the Act of God and not his own; for tho it prove Juſtice in the purchaſer, yet it is not Juſtice in the ſeller, but the Price of the Buyer, which if the *poor* and needy want, they muſt not have, becauſe they have not wherewithal to bid for it, who are nevertheleſs under the Protection of Juſtice equally with the moſt Opulent. However God out of his boundleſs Providence foreſaw how great would be the Temptations of Avarice, and the allurements of Gold, tho currant no where but upon Earth, that he provides againſt the charming Iniquity by a ſtrict command,

mand, *Thou ſhalt not reſpect perſons, nor take a Gift, for a gift blinds the eyes of the wiſe.* So that the high Crimes alledg'd againſt the Sons of *Samuel* were, that they *turn'd after Lucre, and took Bribes.* From whence the Light of Nature infus'd the ſame deteſtation of theſe Miſdemeanors in all other Miniſters of Juſtice. By *Heſiod* they are call'd Ἄνδρες Δωροφάγοι, or Gift-eaters, whom he makes Juſtice to follow weeping, and bewailing the fatal Conſequences of her bad uſage. *Phocyllides* alſo, from the ſame Law of Nature could give this advice,

——— μηδὲ κρίσιν ἐς χάριν ἕλκειν.

Let not favour byaſs Juſtice; for if thou doſt ſaith he, —— σὲ θεὸς μετέπειτα δικάσσει. God will afterwards judge thee. And another of the *Gnomonicks*, wouldſt thou ſupport thy life, ἐκ δικαίων, by doing juſtly? then φεῦγε κέρδος κακὸν, fly ill got gain. We read in *Herodotus* of *Seſamnes* one of the *Perſian* Judges, put to death for Bribery by *Cambyſes*, who caus'd him to be flea'd after he was dead, and his Tann'd

Tann'd Skin to be cut into Thongs to make a Seat for his Son.

Among the *Roman's* by the *Junian Law* Bribery or ſelling of Juſtice was puniſh'd with Exile; and by the *Acilian Law*, they were immediately to receive Judgment, without any demurs. It may be thought that ſelling of places relating to Courts of Judicature was not a cuſtom then in practice, elſe we might conclude that they who made ſuch ample proviſion againſt the ſelling of Juſtice, would have as carefully provided againſt the ſelling of thoſe Inferiour Authorities that refer to the Execution of it. Eſpecially when the Rates run ſo High as now they do. Twelve hunder'd, Two Thouſand pound for a Jaylours place, Four hunder'd for a Serjeants, and ſo proportionably for others. For it ſerves for a ſpecious Plea to thoſe that ſhall be call'd to accompt for their miſcarriages, that they have bought ſo dear. Nor does the Name of a *Favourite in Court* ſound well, for though it may not be ſo effectual as ſome may think, yet is the thing it ſelf ſuſpicious to all, eſpecially when they ſee the

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Fortunes and Emoluments of that perſon advanc'd above others of equal merit.

But after pardon for this ſhort digreſſion, the two next Grievances by this Charter promis'd to be reform'd are the delay and denial of Juſtice; both much of the ſame Nature, ſeeing that the *Delay* is in ſome meaſure the denial of Juſtice. Which words, *delay of Juſtice*, are ſo expounded by ſeveral Acts of Parliament, that by no means Common Right or Common Law ſhould be diſturb'd or delay'd, tho' it be commanded under the Great or Privy Seal, or by any Order, Writ, Letters or Command whatſoever, even from the Prince himſelf, or any other; but that the Juſtices ſhall proceed, as if no ſuch Writs, Letters, Meſſages or Commandment were come to them. And therefore the Epithite of *Celeris* is giv'n to the Law; in regard there is nothing which can be more welcom to thoſe who are aggriev'd or diſtreſſed then quick and ſpeedy Relief. And this is without doubt the meaning of thoſe poſitive Commands in Scripture to which the Judges

Judges of the Earth, to hear the cries of the Poor and Needy; who if not ſoon redreſs'd, are doubly undone by unneceſſary Expence, and with-holding from them the profit of their legal and juſt claims. But as the Delay is bad, ſo is the poſitive denial ſo much the more to be avoided, by how much the Lamentations and Cries of the injur'd make a louder ſound in the Ears of Heaven, and open with greater ſwiftneſs and more rapid violence the Flood-gates of Divine Vengeance upon a Nation. For if the cauſe of the oppreſſed be the cauſe of God, then the denial of Juſtice is the denial of the Almighties own Suit, with whom this great Charter would not contend. And therefore the Prince, here minding his future Salvation, freely diſcards the *ſelling*, *delay* and *denial* of Juſtice, knowing how little they would avail, when unreliev'd Oppreſſion ſhould plead againſt him at the Bar of Heaven. If then the Law of *England* be the ſureſt Sanctuary which an Engliſh Man can take, and the ſtrongeſt Fortreſs to protect the weakeſt of All, it muſt be aſſuredly much more ſacred

and beneficial, when built up of the Materials of Gods Commands and Natures Light. Nor can they who at any time ſhall ſeek to deſtroy ſo beautiful a Structure, expect other then to periſh in its Ruines.

But here may ſome advance a *Quære*, and ask, what is meant by this *Per legem terræ*, this *Law of the Land?* A Scrutiny with the ſame facility as made plainly reſolv'd by the Statute of the 25 *Ed.* 3. *c.* 4. where *per legem terræ* is expounded to be by due Proceſs of the Law. For thus the words run: *Whereas it is contained in the Great Charter, &c. that no Man ſhall be impriſon'd, &c. It is accorded, aſſented and ſtabliſh'd, That no Man ſhall be taken by Petition or Suggeſtion to our Lord the King, or his Council, unleſs it be by Indictment or Preſentment of his good and lawful People of the ſame Neighbourhood where ſuch Deeds be done, in due manner, or by Proceſs made by Writ Original at the Common Law. Nor that none be outed of his Franchiſe or his Freehold, unleſs he be duly brought in anſwer, and forejudg'd of the ſame by the Courſe of the Law. And if any thing*

be

be done againſt the ſame, it ſhall be redreſs'd and holden for none. Upon which words the Lord *Cook* obſerves, that Proceſs of Law is twofold, By the Kings Writ, or by due proceeding and Warrant, either in Deed, or in Law without Writ. Which latter way of Proceeding is againſt Criminals, where there is good Witneſs againſt the Offender. And Evidence muſt proceed from perſons of good Fame, Credit and Honeſty, not from debauch'd, malevolent and ſcandalous Informers. And therefore the Law requires, that they who grant any ſuch Warrant have lawful Authority; that the Warrant be lawful, and under Hand and Seal; that the Cauſe be ſpecify'd in the Warrant; and laſtly, that the intent of the Warrant be Legal, for the ſafe Cuſtody of the Party till he be deliver'd by due courſe of Law. Which is plain from the Stile of our *Habeas Corpus's*, *Ut Juſticiarii noſtri viſa cauſa, fieri faciant quod de Jure & ſecundum Legem & Conſuetudinem Regni Noſtri Angliæ foret faciendum.*

In farther proof of which Expoſition, we find it Enacted in the 27 of *Ed.* 3. *c.* 3. *That no Man of what Eſtate or Condition that he be, ſhall be put out of Land or Tenement, nor taken nor impriſon'd, nor diſherited, nor put to death without being brought to anſwer by due Proceſs of the Law.* Which laſt words expounding and fully anſwering the doubt upon *per Legem terræ*, plainly evince the Law of the Land to be ſuch, that no Man ought to receive detriment either in Perſon or Eſtate before legal Trial and due proof of the Offence.

True it is, that the Lord *Cook* brings an Inſtance of an Act of Parliament made in the face of this Fundamental Law of *Magna Charta* in the 11th year of *Hen.* 7. That as well Juſtices of Aſſize, as Juſtices of the Peace (without any finding or Preſentment of Twelve Men) upon a bare Information for the King before them made, ſhould have full Power and Authority by their diſcretions to hear and determine all Offences and Contempts committed or done againſt the form of any Statute in force and not

not repeal'd. But the Fence of Common Juſtice being thus broken, what enſu'd? By this Act, ſhaking the Fundamental Law of *Magna Charta*, it is not credible, ſaith He, what Oppreſſions and Extortions to the Ruine of infinite numbers of People were committed by *Empſon* and *Dudley*.

Therefore in th firſt year of *Hen.*8. that Act was repeal'd and made void; and the reaſon is given, For that by force of the ſaid Act, many ſiniſter, crafty, feigned and forg'd Informations had bin purſu'd againſt divers of of the Kings Subjects, to their great Damage and wrongful vexation. So that even Acts of Parliament themſelves, if they entrench upon the Subjects Liberty grounded upon the ſacred meaning and intent of this Fundamental Law of *Magna Charta*, are as liable to be put to death, as any that offend againſt the juſteſt Ordinances of the Realm. Neither was this a thing that ſcap'd the conſideration of former Princes. And therefore to prevent ſo foul a miſcarriage by the beſt means that could be, It was Enacted at *Weſtminſter* in the Third year of *Ed.* 1.

That, *becauſe all Elections ought to be free, no Man ſhould under grievous forfeiture by force, malice or menaces, diſturb any to make free Election.* It being the ancient maxime of the Law, *Fiant Elections Rite, & libere ſine aliqua interruptione*, Let all Elections be due and Free.

By the 1 *Hen.* 5. 1. it is ordained and Eſtabliſhed, *That the Citizens and Burgeſſes of the Cities and Boroughs be choſen of Men, Citizens and Burgeſſes Reſiant and dwelling, and free in the ſame Cities and Boroughs, and no otherwiſe.*

The like proviſion is alſo made by the 23 of *Hen.* 6. *c* 15. Nor was there leſs care taken to commit the charge of Elections to Men of Subſtance and Eſtate; beſides that all Sheriffs and Mayors, and others concern'd are lyable to great Fines and Actions of the parties injur'd for undue Returns.

For it might be well thought, that Perſons of Credit and Reputation in the places of their Birth, or long habitation, and where their Fortunes lye, will be more tender of the Common Good and welfare of their Friends,

Friends, Relations, and Neighbours with whom they have daily Converſe, then Strangers creeping in at the back dores of vaſt Expence and Purchaſe to gratifie their own Ambition. Which ſort of *Ambitus* by the *Culpurnian* Law among the *Romans* was puniſh'd by heavy Fine on the *Canvaſſer*; beſide that, he was afterwards render'd uncapable of being Elected into a Senators place. And the ſame Law was alſo after that ratify'd by the Senate in the Conſulſhip of *Tullius* and *Antonius*. And by the *Tullian* Law the Commonalty themſelves offending in that point were alſo moſt ſeverely puniſh'd, beſide that the Canvaſſers were to ſuffer ten years Exilement. And thus we may ſee how vigilant even our Princes themſelves have bin to ſet ſtrong Watch and Ward about the Election of our Law-makers and Preſervers. But if needy Corporations will ſell their Rights, and ſurrender the Fortreſs of wholſome Statutes to *Philip* of *Maccdon's* laden Mules, they muſt not blame the ſteady Ordinances of the Realm, and the juſt Proviſions of their moſt Noble Princes, but

their own *Edomite* Hunger after the Amiable Pottage.

There is a ſecond Queſtion which may be propounded by ſome, Where the Remedy lies if a Man be wrong'd or injur'd contrary to the Law of the Land? To which the *Lord Cook* himſelf replies, That every Act of Parliament made againſt any Injury, Miſchief or Grievance, either expreſly or impliedly, give a remedy to the party wrong'd; which alſo is done by many Chapters of the Great Charter; and therefore he may have an Action grounded upon the Charter it ſelf. And that moreover it is provided by the 36 *Ed.* 3. That if any Man feeleth himſelf griev'd contrary to any Article in any Statute, he ſhall have his preſent Redreſs in Chancery, that is, by Original Writ, by force of the ſaid Articles and Statutes.

That Nation would enjoy a moſt perfect Happineſs indeed that were not ſometimes liable to the incroaching Diſtempers and Corruptions of a ſickly Government. The moſt healthy perſon in the World may ſometimes need a little Phyſic; and the moſt tem-

temperate and ſane may ſometimes diſorder the frame of their Health by their own Exceſſes. But it is rarely known that ſuch accidental Commotions of the blood prove mortal; as meeting with thoſe timely Applications which ſoon reſtore and ſettle all again. Thus the Epidemic Fever of *Dudley* and *Empſons* Proſecutions infected for a while the Veins of the whole Nation, but the Healthy Conſtitution of the Kingdom ſoon threw it off, and it was cur'd with a little Blood-letting.

The Proceedings, Cenſures and Decrees of the Star-Chamber, were for ſome time in the very words of the Act an *Intolerable Burthen to the Subject*, and lookt upon as *a means to introduce Arbitrary Power and Government.* Even the Privy Council it ſelf was tax'd, with *determining of the Eſtates and Liberties of the Subject contrary to the Law of the Land.* Therefore was the Power of the Star-Chamber by that Act abſolutely and clearly diſſolv'd, taken away and determin'd. And that not only for the general reaſons already recited, but upon the rehearſal of the Grand Charter, and the

the ſeveral Confirmations of it from time to time; Firſt, becauſe the Judges of that Court, *had undertaken to puniſh where the Law did not warrant, to make Decrees for things having no ſuch Authority, and to inflict heavier puniſhments then by Law were warrantable*; and ſecondly, for that all *matters examinable and determinable before the ſaid Judges might have their proper remedy and redreſs; and their due pnniſhment and correction by the Common Law of the Land, and in the ordinary Courſe of Juſtice elſewhere.* And with this ſame Court fell alſo ſeveral other Juriſdictions of the ſame Nature.

Then for the Regulation of the Council, it was enacted, that neither the Prince or his Council *had or ought to have any Juriſdiction, Power or Authority by Engliſh Bill, Petition, Articles, Libell, or by any other Arbitrary way whatever, to examine or draw into queſtion, determine or diſpoſe of the Lands, Tenements, Hereditaments, Goods or Chattels of any of the Subjects of this Kingdom, but that the ſame ought to be try'd and determin'd in the ordinary Courts of Juſtice, and by the ordinary Courſe of the Law.* And

And thus the Grievances of a well conſtituted Nation at one time or other have ſtill their mortal Periods, and are forc'd to flie from the ſtern and awful Countenance of Fundamental Law. For Law has Heav'n on her ſide, which Injuſtice and Oppreſſion cannot pretend to. For where Laws are grounded upon the firm Baſis of Divine Reaſon, the violation of Humane Conſtitution, is the violation of Heavenly Juſtice. Againſt which for Cruelty and Oppreſſion to make a kind of a Titanic War, proves as fatal in the end as the Inſurrection of thoſe Gyants againſt Heav'n it ſelf. *Leges dormiunt, non moriuntur.* The Laws may ſleep but never dye. The locks of the Law may be cut off, but they will grow again; and then ſhe rouzes up her ſelf more vigorouſly and with new recover'd ſtrength, ſhaking off the feeble bands of Violence, nere ceaſes till ſhe has brought Illegal Force and Arbitrary proſecution upon their Knees.

Nor fares it better with thoſe who to enrich and raiſe their own Families adviſe the infringement of Fundamental

tal Law and moderate Rule. Who for the ſake of Temporary Splendour and Command, care not tho they drive the Chariot Wheels of their Ambition over the Necks of undone Millions. And thus we may behold in Hiſtory, even where Tyranny it ſelf controuls, an *Ibrahim Baſſa* with all his tickling flattery dragg'd to the block to attone the oppreſſion of the Incens'd Multitude with the loſs of his Criminal Head. Our own ſtory brings us forth the Great *Juſticiary* of *England*, *Hubert de Burgo*, once a Patriot and lover of his Country, but at length beguil'd by the Advantages of Honour and Preferment, for Careſſing the humour of a young Prince, and inſtructing him which way to avoid this very Charter granted by his Father, and by himſelf in his Nonage confirm'd, (for which he was advanc'd to the higheſt Dignity in the Kingdom, and made Earl of *Kent*,) not only degraded of his Honour, not only ſtripp'd of all his Wealth which he had ſo unduly obtain'd, but which wat more, he ſaw himſelf a forlorn ſufferer under the heavy Indignation

of

of that Prince to whom he had ſo officiouſly devoted his Illegal Induſtry. We may alſo in the progreſs of the ſame Story read the Tragical Exits of the Potent and Opulent *Spencers*, Father and Son, for giving raſh and evil Counſel to their Soveraign againſt the Form of the Grand Charter. So hard a matter it is for the moſt powerful and politic Champions of Illegality and Oppreſſion to wraſtle with the Fundamental Law of this Nation without a diſmal fall. According to that of *Pindar*, for this is not novel but ancient Experience. —— τὸ δ' ὑπερ δίκαν γλυκὺ πικροτάτα μάνοι τελευτᾷ. Moſt bitter is the end which attends the ſweets of Injuſtice. And therefore *Thuanus* reflecting upon the Calamity of *Ibrahim Baſſa* before-mention'd, *A moſt remarkable example*, ſaith he, *to thoſe, who for the ſake of one perſon, whoſe favour they have won by moſt unſeemly and pernicious Devotion, trample under Foot the general Hatred of all others; whereas they ought rather to imitate thoſe perſons, who being advanc'd to higheſt preferments, ſo behav'd themſelves in the diſcharge of their Truſts, that they may* be

Iſthm. Ode 7.

Thuan. l. 95.

be always ready to part with their preferments, and not be afraid to retire to a private life, if it be their Fortune to be remov'd. Otherwiſe it many times falls out that they are left to the free revenge of all whom they have offended, or elſe with the great regret of the Prince himſelf are hurry'd away to open puniſhment for the ſatisfaction of Popular indignation.

Even Princes themſelves have labour'd under the evil conſequences that have attended the Injuries which they have done to the fundamental Conſtitutions of their own Realms; which has only ſerv'd to render their Lives and all their Glory troubleſome, vexacious, and full of perplexity; and to deprive them of that quiet and tranquility which makes the Enjoyment of Life ſweet.

Lewis the XI, as *Comines* his own Servant records, was the firſt, to uſe his own words, who at his own pleaſure levy'd mony upon the People without their conſent. And to gain the conſent of the Nobility ſo to do, within their own Juriſdictions, promis'd them Annual Penſions. Certainly

ſaith

ſaith the Hiſtorian, he gave ſo great a wound to *France*, that it will not eaſily be cur'd. For none of the former Kings ſo afflicted *France* as he did, but more eſpecially by ſubverting the Authority of their Parliaments. And is therefore ſaid to have bin the firſt of the *French* Monarchs that freed his Succeſſors *hors de Page*, out of Guardianſhip.

Of this Prince, *Mezeray* gives this accompt. The Conduct which *Lewis* while he was yet but *Dolphin*, obſerv'd in all his Actions, particularly toward his own Father, and Subjects of the *Dauphinate*, ſufficiently demonſtrated what his Friends and Subjects were to hope from him. He govern'd always without Counſel, moſt commonly without Juſtice, without reaſon. He thought it the height of Policy to forſake the Road of all his Predeceſſors, and to leave nothing unaſſay'd, whether good or evil to make himſelf redoubted. His piercing but too fine and crafty Wit, was the greateſt Enemy of his own and the repoſe of *France*. He choſe rather to follow his own irregular Fancies, then the

La vie du Louis XI.

the prudent Laws of the Realm. And he caus'd his Grandeur to conſiſt in the Oppreſſion of his People, the undoing and debaſing his Nobility, and the advancement of the meaneſt and moſt indigent. But when he grew near his end, then the conſiderations of what he had done, tormented him in ſo cruel a manner, that he was afraid of every one that came near him, grew jealous of his own Son and Daughter; and he that had invented Priſons and Fetters for others, was now his own Priſoner in his Caſtle of *Pleſſis*, fortify'd with a grate of Iron-Bars; and planted with Watch-houſes of Iron for his Guards. So that it was impoſſible to hold a King in a ſtreighter Priſon then he held himſelf; where he liv'd unſeen of any, becauſe he would let none come at him. His Phyſitian, who had ſworn to him he ſhould not live eight days, if he turn'd him away as he did his other Servants, he ſo dreaded, that he flatter'd him to obtain his Favour. And to prolong his Life which he was ſo afraid to loſe, he ſuperſtitiouſly ſent for a Hermit from the fartheſt Corner

Comines.

Corner of *Italy*, expecting great matters from his prayers. In ſhort, ſays *Comines*, From his Childhood to his Death he was in continual noiſe and trouble, ſo that were his joyful days to be number'd, they would be found but very few. But when there was no hopes of life, he ſent for his Son, and gave him other advice then he had follow'd himſelf, to rule according to the Law, to eaſe his People, and reduce the Taxes to their former Eſtabliſhment.

So that the Law is as much the ſecurity and ſafety of the Prince as of the People; and the Obſervation of the Law is ſo far from being a ſervitude, that it is a Royal Vertue. For this is that, which as it ſecures his outward felicity, ſecures the Inward tranquility of his mind, and raiſes him a Monument of laſting Fame and Veneration after death in the hearts of his Subjects from Generation to Generation.

And thus *Lewis* the XII. ſirnam'd the *Juſt*, ſo dear to his People while He liv'd, became ſo much the Darling of Poſterity, and his memory conti-

nu'd ſo ſacred and ſo much reverenc'd even in the time of *Thuanus*, that when any debate aroſe either in Council, Parliaments, or Courts of Judicature, about the Miſcarriages of the Government, always the Raign of *Lewis* the XII. was propos'd as the Pattern and Standard of the Reformation intended.

Thus the Law of *England* is the Security of the Prince and People. The ſecurity of the Prince as being the ſecurity of his Prerogative, which is a part of the Law, and comprehended in it. And ſo the ſecurity of the Prerogative becomes in courſe the ſecurity of the Peoples Liberty, being both determin'd by the Law and Cuſtoms of the Land; there being no other Prerogative, nor any other Liberty of the Subject then what they allow.

So that there is nothing can injure the Law of *England* but wreſting and miſinterpretation, nor can it well be wreſted neither, unleſs it be ſcrew'd from the intent of Reaſon and Honeſty. Neither is it poſſible for any man to miſ-interpret it, without the Shipwrack of his Conſcience upon the Rocks

Rocks of ſpecious pretence. For miſ-interpretation miſ-guides the Law to Evil; which no man can think to be a vertuous Act, whatever may be his aim in doing of it. The Law of *England* impoſes nothing but what is grounded upon the Maximes of what is juſt and honeſt in it ſelf, and is currant to all, as bearing the Stamp of Right Reaſon and Divine Truth; which They who miſ-interpret, counterfeit the Impreſſion, and utter the baſe Coyn of Falſhood and Diſſembl'd Pretence for Real Verity.

But when Dominion and Authority believing it ſelf too rudely curb'd, or Popular Liberty deeming it ſelf too ſeverely checkt, ſeek to tranſcend the Limits of the Law; then Intereſt and Faction create Sidings and Parties, and invent wicked Names of Diſtinction; and the whole Frame of Law is put into Diſorder. Nor does either party want Incendiaries, who for their private Emoluments and Advantages kindle thoſe Fires on Earth that ſhall torment 'em hereafter. Whereas the ſtrict obſervance of Command according to the Law, and the due performance of

Homage and Obedience according to the Injunctions of the ſame Law would keep all things right, and nothing could ſhake the Prerogative and Safety of the Prince, or the Liberty and Security of the Subject.

The greateſt Happineſſes that God beſtows upon Mankind have all their Limits ſet. The Sun is ty'd to his Diurnal and Annual Motions; The Stars are fix'd within their proper Spheres, and cannot ſtir beyond the Law of Nature. The Seaſons have their limits; the Sea and Land have both their bounds. Nay Vertue her ſelf, if ſhe runs into Exceſs, mounts or deſcends to ſome particular Vice. And therefore good Government cannot take it ill, if it be impal'd within the Laws of Order and Moderation. Eſpecially ſeeing that Juſtice it ſelf whoſe Miniſter it is, is reſtrain'd and limited in her Power.

The ſame conſiderations faſten the Ligaments of Obedience. For the whole World is but one entire piece of Obedience to its Soveraign, of which that only unruly part is Man himſelf. We are bound to obey our law-

lawful Supream not only as Subjects, for the outward benefits of Peace and Protection, but as Chriſtians, for the inward ſatisfaction of Conſcience, as being a part of our Chriſtian Duty. Neither is it leſs folly then Impiety to be diſobedient to thoſe that govern by good and wholſome Laws. For thereby they deſtroy their own preſervation. Therefore it was one of the higheſt praiſes of the *Lacedemonians*, that they knew when they had good and wholſome Laws, and as well knew how to obey them. And it was their conſtancy in adhering to their fundamental Laws, and the reverence they bare to their Princes ſo ſtrict in the Obſervance of them, that ſo long preſerv'd them their Reputation of being what they were, the moſt renowned People of *Greece*.

To ſerve a Prince becauſe we receive particular Benefits and Graces from his Authority, is no Obedience but Self-Intereſt, and conſequently there is no aſſurance of their Fidelity, which changes of an inſtant upon the hopes of a better Market.

Neither can that be ſaid to be true Obedience, which is only a ſubmiſſion out of fear of puniſhment. For that is only Self-love, and a natural propenſity to eaſe and repoſe. If it may not rather be ſaid to be Slavery. For ſubmiſſion out of fear denotes compulſion: and compulſion is a mark of ſervitude and vaſſalage, rather then of real Homage and Obedience.

But the Fidelity and Obedience of a true Subject proceeds from the obligation of Conſcience; and is the ſame Tye to his Prince, by which the Prince is bound to God Himſelf, by Conſcience to do Acts of Juſtice and Mercy, as being the Vice-Paſtor of the People of God, and the Vice-gerent of the King of Peace and Juſtice. Nay he is the living Image of God; Ἐικων δ' βασιλεὺς ἐστιν ἔμψυχος θεοῦ. And how comes that to be? The Light of Nature tells us, ſhining even among the Heathen. Ἀρχῆς τετευχὼς ἴσθι τούτης ἄξιος. For that having obtain'd a Kingdom, he is to ſhew himſelf moſt worthy of ſo ſupream a Dignity. Which high deſerving Excellence then moſt radiantly diſplays it ſelf in Majeſty, when it appears array'd with

with the Beams of Divine Attributes.

Τῇ μὲν οὐσίᾳ τὸ σώματος ἴσος πάντες ἀνθρώπῳ ὁ βασι- Philo.
λεύς, τῇ ἐξουσίᾳ δὲ τὸ ἀξιώματος, ὁμοίως ἔχει τῷ ὄντι
πάντων θεῷ. As to bodily ſubſtance a King is like another Man, but in the power of his Dignity he is like to God who is above all. So that when the Authority of a King is like the Authority of God, (and Righteous and true are all his ways) there to refuſe Obedience to the King, is the ſame impiety as to refuſe Obedience to God himſelf. However, it is not to be imagin'd that ſo much ſtrictneſs can be expected from Mortality: the reſemblance is enough to fix our Veneration. Therefore all Princes are by the *Pſalmiſt* ſtil'd *Gods*; tho he is very ſevere againſt thoſe that deviate from the Reſemblance of the Heavenly *Prototype*. *Niloxenus* alſo the Wiſe Man, being ask'd what was the moſt profitable and uſeful Thing in the World, anſwer'd, a *King*, as moſt reſembling God in his works of Juſtice and Mercy, and to whom therefore the People by Conſcience are bound with all humility to pay the Tribute of Homage and Obedience. And for this reaſon

all perſons, of what Quality, Condition, or Sex ſoever, tho they never took the Oath of Allegiance, are as firmly bound by it, as if they had taken it, as being written by the Finger of the Law in the hearts of every one, and the taking it is but an outward Declaration of the Act it ſelf. For as it is *proprium Imperiis imperare per leges*, So is it *proprium Subjectionis*, *obedientiam præſtare per leges*. Which is no more then the reciprocal Stipulation of God himſelf with his Creature Man. *I am the Lord thy God that brought thee out of the Land of* Egypt, therefore thou ſhalt have no other Gods but me. *I am the Lord thy God, &c.* therefore obey my Commandments. And it is remarkable that God always expoſtulates with his People for their Ingratitude for ſignal benefits receiv'd, before he puniſh them for diſobedience.

Now there is one prevailing Lure that draws Men into the Snare of *Diſobedience*, and that is call'd *pretence* of *Religion*; which falling into the management of Crafty Heads, proves the pernicious Coverture of Rebellious and Trayterous deſigns, and therefore

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one of the greateſt Enemies of Law and Government in this World. It ought to be mark'd for deſtruction, as *Cain* was for his preſervation. For it is a hard matter to diſcover it, ſo exactly do the Incendiaries and Promoters of Sedition paint and dreſs their falſe *Plantagenets*, and *Pſeudo-Muſtapha's* in reſemblance of the real Portraiture. Eſpecially when they come to be fucuſs'd and periwigg'd by the Skilful hands of Spiritual Ambition, for the ſupport of Eccleſiaſtical Pomp and Superſtition. It is nefarious any where, but never proves worſe then when it aſcends the Pulpit. From whence it ought to be exterminated with all the care imaginable; there being nothing more fatal to all good Government then to foſter it in the Boſom of Intereſt. Which ſully'd the Encomium of *Ferdinand* of *Arragon*, a moſt prudent and happy Prince, in whom ſays the Hiſtorian, there was nothing to be deſir'd but that Integrity with which he us'd to cloak his ambition and immoderate deſire of enlarging his Dominions, under the pretence of Religion. Nor need there any

Thuan. l. 1.

any farther Examples of the miſchiefs of diſſembl'd Piety, then thoſe which ſo lately imbru'd their hands in the bowels of this Nation.

However, the trueſt touch-ſtone of feigned Zeal and counterfeit Religion is the Fundamental Law of the Land; which being grounded, as hath bin already made out, upon the Law of God and Nature, nothing of true Zeal, nothing of ſincere Religion, nothing of Conſcience will adventure to violate or diſturb. No real Chriſtian Subject, no perſon of Conſcience, no man profeſſing the true grounds of Religion will deny his Prince the leaſt tittle of his lawful Rights, or refuſe him the leaſt Mite of his Legal Tributes, or whiſper the leaſt undecent Murmur againſt his juſt proceedings, according to the Fundamental Law of the Land, which if true Prerogative it ſelf cannot pretend againſt, much leſs are the Encroachments upon it of diſſembl'd Piety and maſqueraded Zeal to be endur'd. So that whatever pretence of Religion impugnes the Fundamental Law of the Land, the pretence is unjuſt and irreligious; and ſuch pretences

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are to be grappl'd with, as the intending Introducers of Confuſion and Subverſion.

Not that this extends to the inforcement of Obedience to any unjuſt Law which the Self-ends of Intereſt, may produce. For according to the Sentence of all the Grand Caſuiſts now in Fame, and of *Suarez* among the reſt, an unjuſt Law is no Law, and therefore lays no obligation upon the Conſcience or Moral Obedience of the People, but is rather to be peremptorily refus'd. Now whither any Law be unjuſt or no, is to be decided by *Magna Charta*, for that all Laws made contrary to That, are by other Fundamental Laws of the Realm adjudg'd to be void and of no effect. And thus the Great Charter becomes the Judge of True Religion as well as True Law. For True Law commands nothing but what is juſt and conſonant to true Religion. But an unjuſt Law is *ex parte materiæ* unjuſt, as commanding that which is diſhoneſt and Irreligious; of which only the pretence of Religion will adventure to be the Patron; and which they who wreſt the favour of the

L. 3. de leg. c. 19.

the Law to protect, can never be accompted Men of Religion or Piety. And therefore the vigorous defenders of pretended Religion cannot be too ſeverely cenſur'd, as being breakers of the Law. For,

Ῥήτωρ πονηρὸς τοὺς νόμους λυμαίνεται.

A wicked Orator pollutes the Laws; defending Falſhood by Fallacy, and Impoſture by deceitful Argument. Which tho they have their ſucceſſes for a time, yet no ſooner comes the Storm of Reformation, but they daſh to pieces againſt the Rock of Fundamental Law. Againſt which all the Cabals and Combinations of Policy and pretence of Religion have not yet been able to prevail. Even the moſt Potent and Arbitrary Uſurpation that ever hamper'd this Kingdom, and the moſt powerfully defended in all it's ſpecious Pretences *tam Marte quam Mercurio*, by Arms and Pens, was compell'd at length to ſurrender all its counterfeit Glory to the Reſtoration of Legal Soveraignty and Fundamental Law.

Since

Since then the Fundamental Law of *England* is the free and open *Aſylum* for every Free-born Engliſh Man to repair to for the Redreſs of Grievances, and Oppreſſion; as they who have recourſe to other Remedies travail with Reproach and Scandal, ſo they who ſuffer Languiſhment and Ruine, without ſeeking relief in its proper place, and by thoſe declared means, which with the conſent of the Prince himſelf the Law of the Land, for ſo many Ages conſtituted and confirm'd, ſo frankly affords, are themſelves the *Felo's* of their own Rights and Liberties. And if by other attempts they ſhew their deſire of Innovaſion, and have it, tho perhaps not to their own content, they are the cauſe Original of ſuch Encroachments, and chiefly to be blam'd if any Violence be offer'd to the Fundamental Laws. It is their Intereſt therefore to defend thoſe Laws which defend and ſecure their Prince and them; their Prince's Succeſſors and their own Poſterity. It is their buſineſs to ſtand by the ſincerity of Religion, and the Integrity of their eſtabliſh't Law: And therefore as the Patronage

tronage of True Religion and the Guardianſhip and Protection of the Fundamental Law belongs to the care of the Prince, ſo for the Subject to deſert the Prince in the proſecution of ſuch high deſigns, is to deſert the chief ſecurity of their own Rights and Liberties: and to ramble after Innovaſions and Changes of their Eſtabliſht Laws, is to forfeit their Eſtates and Fortunes, and the Felicity of the whole Realm to the next moſt Potent Seizer. Nothing render'd the *Lacedemonians* more formidable to Forraign Nations then the ſtrict obſervance of their fundamental and experienc'd Laws. And then their ancient Glory and Renown firſt deſerted Them, when firſt they began to relinquiſh their own Security.

'Tis a folly therefore for a Nation to diſ-unite about Trifles which the Law of Man is able to decide whether juſt and honeſt in Temporals, and the Holy Scripture to determine whether neceſſary or uſeful in Spirituals. To inſiſt upon the determination of theſe ſacred Arbitrators is not only Regular but neceſſary, to avoid the forfeiture

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of Temporal Right and Chriſtian Freedom.

If a rigorous Creditor ſhould come and ſweep away with an Execution ten times the value of his Debt, he would be thought to have a ſtrange diſtruſt of the Law, and to be monſtrouſly forgetful of his Family and himſelf, that ſhould forgo the relief of the Law, and ſuffer his Creditour to enrich himſelf with the Spoils of his ranſackt Eſtate. Or if a Perſon of great wealth and high Authority ſhould ſet up a feign'd Title to the ſmall Tenement of a Poor man, he muſt be deem'd to have a very ſlight Opinion of the Law, that ſhould ſtand ſtill, and ſuffer his ſlender Patrimony to be raviſh'd from him by the violent hands of opulent Oppreſſion. The Law has provided Remedies againſt all ſorts of Cruelty, and infringements of legal and due Liberty, which the natural Law of Self-preſervation encourages every Man to lay hold of. So that he who careleſly neglects, deſervedly ſuffers under the neglect of his own Security. Therefore 'tis a Maxim of the Law, *Vigilantibus, non Dormientibus Jura ſubveniunt.*

veniunt. And therefore alſo ſays the Son of *Syrach*, *A man of underſtanding truſteth in the Law, and the Law is faithful unto him, as an Oracle.*

Eccleſ. 33. 3.

But wherever Diviſion and Diſtraction, diſplacing Concord and Unity ſo like the precious Oyntment that ran down from the Beard to the Skirts of the ſacrificers Garment, diſturb the Oeconomy of good Government, and diſorder the ſteady Courſe of *Meum* and *Tuum*, Juſtice is put to a Nonplus, being courted of all hands at the vaſt Expence of fawning Rhetoric and Reward, while both Parties endeavour to make her the Patron of their pretenſions. So that when Grievance ſeeks redreſs, or Wrong and Injury implore relief, Juſtice like a certain kind of Sentinel, demands firſt of all, *Who are ye for?* and puts ye to the *Shibboleth* Teſt, before ſhe will admit a Parley. And while a Nation is thus embroyl'd, what can be expected, but *ſæva Juſſa, continuæ accuſationes, & fallaces Amicitiæ*; Which only tend to Ruine and Deſtruction. A Scene far different from thoſe Times of Unity and Peace, of which *Tacitus* ſpeaks, when

when it was lawful to think what a Man pleas'd, and ſpeak what he thought: the ſureſt Character of National Quiet and Unanimity. *Hiſt.* l. 1. *c.* 1.

The *Romans* had no leſs then four Temples in *Rome*, dedicated to *Concord*. More then are ſometimes to be found in ſome Chriſtian Cities, which have three times the number of Churches. Concord is the *Medulla Spinalis* of a Kingdom, that fortifies and ſtrengthens the ſeveral parts of a Realm, gives it Force and Activity, and makes it pliable to all the performances of Vertue and Heroic Magnanimity, that renders it compact and ſtrong at home, and formidable abroad, and conſequently ſecure from Clandeſtine and Domeſtic Diſtempers, and the Menaces of Forraign Violence. And for this reaſon it was that the *Thebans* aſſign'd the Protection of their City to the Goddeſs *Harmonia*; Thereby intimating the vaſt benefits which Kingdoms and Cities receiv'd from the ſtrict obſervance of Unity and Concord among themſelves. And the *Achæans* then flouriſh'd moſt highly in renown, when, *ſingularium urbium pe-*

ricula mutuis viribus propulſabant. For ſuch was the Unanimity of the ſeveral Cities under their Juriſdiction, that they were ſaid to be but one City environ'd with ſeveral Walls. And it is farther recorded to their fame, that while Juſtice and Concord hold the Raines of their Government, not all the force of their confederated Adverſaries could remove them from their Station. But when thoſe Vertues were exil'd by Avarice and Ambition, and the poyſon of Diſcord had infus'd it ſelf into their Counſels, then fell that noble and renowned Commonwealth. Which Felicities of Juſtice and Concord proceeded from the equal poiſe between the Authority of the ſupream Rulers and the Peoples Liberty.

Polybius.

But the Concord and Unanimity of a Nation, more eſpecially born to Freedom and the remembrance of their Anceſtors Heroic Atchievments, are ſuch frightful Apparitions to the jealous Politicks of all the Neighbouring World, that every one endeavours to prevent the progreſs of ſuch a menacing Aſſociation. Nor are the fatal Inſtruments of Diſcord wanting to aſ-

ſiſt

ſiſt and forward their deſigns. So prevalent are the ſedulous and crafty to the ſervice of the worſt of Miſtreſſes.

Among the reſt, none have infus'd their poyſon more deeply into the veins of ſecular Authority and ſpiritual Juriſdiction, then the Myſterious Society of *Jeſus*, combin'd againſt the Maximes of the Soveraign of their own Order. Whoſe only buſineſs and employment in this World it is, to incenſe the People againſt their Princes, and Princes againſt their Subjects. Theſe Vermin far excel *Proteus*, or any Infernal Spirit in the Aſſumption of Shapes, and are now at length a Terrour even to their firſt *Indulger*, even Anti-Chriſt Himſelf.

To arm themſelves againſt theſe ſeveral Peſts of National Concord and Unanimity, it behoves every true Chriſtian and every good Subject. For it can be no Crime for Men born Free, to preſerve their Ancient Liberties and Rights by the proper and legal means by Fundamental Law preſcrib'd. It can be no Crime to countermine the hidden Trains of Ambitious Project, and ſelf-ended Advice, which for pre-

ſent gratification lye ſapping the very foundations of Common Good and National Unanimity. It can be no offence to have a watchful and vigilant Eye upon the conceal'd Corroders into the Bowels of Law and Liberty, and to diſplay the diſcoveries of their Wiles and Frauds. For, for want of detection the Law loſes in part the opportunity of Reformation. Nature has given to all Creatures ſome or other defence to preſerve them from the Oppreſſion of ſuperiour Violence. To ſome Horns, Claws, Tuskes, Proboſces, Taloons and Stings, from the Lyon to the Crawling Serpent. To others Scales and Armour *Cap a pe* from the Leviathan to the little pitiful Prawn. Neither are Vegetatives without their Thorns, Barks and Prickles. And it would be unreaſonable to think, that Man ſhould be the only part of the Creation left altogether naked. To him therefore is given, both for private and for general preſervation, the defence of Reaſon and Law. Which they who enjoy by Fundamental Conſtitution, are the moſt happy People in the World; nor can they

they be depriv'd of their Ineſtimable Treaſure, their *Strength in the Law of Juſtice*, unleſs they will be ſo unkind to themſelves, and ſo treacherous to their Poſterity, as to ſurrender it to the Green Withs, and weak Cords to ſuch as *love not Righteouſneſs, nor think of the Lord with a true heart.* Wiſdom 1. 1.

And as the People are allow'd the Defence of the Law for the maintenance and Protection of their Liberties. So is the ſame Law no leſs the Fortreſs and Bulwark of Prerogative. And indeed the Law gives to Princes the higheſt Prerogative imaginable. For the Law of Juſtice is Wiſdom, and not the Wiſdom of one ſingle Perſon, but the Wiſdom of God and Nature. Which therefore Kings are adviſ'd to ſeek, *that they may Reign for evermore.* And who knows, for it is not improbable, ſeeing there are Thrones and Dignities and Preheminencies in Heaven, that the Juſt Vicegerents of God upon Earth, may be allow'd to re-aſſume their Dignities in the New *Jeruſalem*; which tho juſt and virtuous Princes cannot be ſure of, yet Tyrants and Oppreſſors can have little

little hope, that it ſhall ever be their Lot.

Princes without their juſt Prerogatives look like the Sun in Winter depriv'd of all his Beams by a thick Fog. They are but Fetter'd Dukes of *Venice*, or Elective Kings of *Poland*. Their *Res Anguſta domi*, levels their condition with the meaneſt; *obſtat Virtutibus*; It will not let them diſplay their Vertues in the performance of thoſe glorious Enterprizes which their Heroic Souls pant after. Their Subjects, if ſo they may be call'd, cannot apprehend whether they deſerve or not. For 'tis no thanks that they do juſtly, when they have no power to do ill. And it is apparent that the too much over-weaning and over-wary curbing of Regal Power, has bin the utter overthrow of many a glorious Undertaking. And we find the *Romans*, tho they had expell'd their Kings, were forc'd, when they knew not what elſe in the Earth to do, in the low Ebb of their Affairs, to truſt a greater Power then ever their Kings had in the Hands of a Dictator. A remedy which never fail'd 'em. And therefore it behoves

hoves the People to defend the juſt Prerogatives of the Prince with the ſame Zeal, the ſame Conſcience, and the ſame Reſolution which they owe to the maintenance of their Liberties, Lives and Fortunes. Since it may well be thought that the one cannot ſubſiſt without the other. The ſame Divine Oracle of Truth, that ſaid to Kings, Do Juſtice and lead my People, commanded the Subject to give *Cæſar* his Due. In which proportionate and equal Poyſe of Relative Care and Obedience whatever State or Kingdom keeps its Station fix'd upon the Foundations of Law and Unanimity, may be certain of an unſhaken and immoveable Diuturnity.

FINIS.